

The Gazette of India

EXTRAORDINARY

PART II—Section 3

PUBLISHED BY AUTHORITY

No. II] NEW DELHI, TUESDAY, JANUARY 12, 1954

MINISTRY OF RAILWAYS

(Railway Board)

NOTIFICATION

New Delhi, the 12th January 1954

S.R.O. 164.—In exercise of the powers conferred by clause (c) of section 5 of the Uttar Pradesh Terminal Tax on Railway Passengers Ordinance, 1954 (No. 1 of 1954), as amended by the Uttar Pradesh Terminal Tax on Railway Passengers (Amendment) Ordinance, 1954 (No. 2 of 1954), the Central Government hereby directs that no terminal tax shall be levied on persons travelling by Railway to and from any of the stations mentioned in sub-section (1) of section 2 of the said Ordinance from and to any of the stations specified below, namely:—

1. Allahabad Sangam
2. Allahabad Junction
3. Allahabad City
4. Atrampur
5. Bamhrauli
6. Balmukandpur
7. Bhadri
8. Bharwari
9. Bheerpur
10. Bhati
11. Bibipur
12. Bishnathganj
13. Daraganj (Izat Bridge)
14. Handia Khas
15. Iradatganj
16. Jasra
17. Jhusi
18. Karchana
19. Kumbhwala
20. Lalgopalganj
21. Lohgara
22. Manoharganj
23. Manauri

24. Mau Aima
25. Meja Road
26. Naini
27. Phaphamau
28. Phulpur
29. Prayag
30. Prayag Ghat
31. Ram Chaura Road
32. Ramnathpur
33. Saiyidsarawan
34. Serai Chandi
35. Sarai Gopal
36. Saidabad
37. Shankergarh
38. Shujaatpur
39. Siwait
40. Subadargunje
41. Tharwai
42. Unchdih.

[No. F.(X)II-53/TX-19/3.]

N. C. DEB,

Director, Finance (Expenditure), Railway Board.

REGISTERED No. D. 221.

The Gazette of India

EXTRAORDINARY
PART II—Section 3
PUBLISHED BY AUTHORITY

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No. 12] NEW DELHI, THURSDAY, JANUARY 14, 1954

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MINISTRY OF LAW

NOTIFICATION

New Delhi, the 14th January 1954

S.R.O. 233.—The following Order made by the President is published for general information.

C.O. 47

THE SUPREME COURT (DECREES AND ORDERS)
ENFORCEMENT ORDER, 1954

In exercise of the powers conferred by clause (1) of article 142 of the Constitution of India and of all other powers enabling him in that behalf, and in supersession of the Supreme Court (Decrees and Orders) Enforcement Order, 1950, the President is pleased to make the following Order, namely:—

1. (1) This Order may be called the Supreme Court (Decrees and Orders) Enforcement Order, 1954.
- (2) It shall come into force at once.

2. Notwithstanding anything contained in any other law in force at the commencement of this Order, any decree passed or order made by the Supreme Court, whether before or after such commencement, including any order as to the costs of, and incidental to, any proceedings in that Court, shall be enforceable

- (a) where such decree or order was passed or made in exercise of its appellate jurisdiction,—in accordance with the provisions of law for the time being in force relating to the enforcement of decrees or orders of the Court or Tribunal

from which the appeal to the Supreme Court was preferred or sought to be preferred, and

- (b) in any other case,—in accordance with the provisions of law for the time being in force relating to the enforcement of decrees or orders of such Court, Tribunal or other authority as the Supreme Court may specify in its decree or order or in a subsequent order made by it on the application of any party to the proceeding

RAJENDRA PRASAD,

President

K. V K SUNDARAM;
Secy to the Govt of Indu.

The Gazette of India



EXTRAORDINARY

PART II -Section 3

PUBLISHED BY AUTHORITY

No. 13] NEW DELHI, MONDAY, JANUARY 18, 1954

DELIMITATION COMMISSION, INDIA

NOTIFICATION

New Delhi, the 18th January, 1954

S.R.O. 234. —The following Order of the Chief Election Commissioner is published for general information :—

ORDER

In exercise of the powers conferred by section 10 of the Delimitation Commission Act, 1952, I hereby make, with the previous approval of the other members of the Commission, the following corrections in the Delimitation Commission's Final Order No. 7, dated the 25th December, 1953 (S.R.O. 2377), relating to the distribution of seats to, and delimitation of, Parliamentary and Assembly constituencies in the State of

Madhya Bharat, published in the *Gazette of India, Extraordinary*, Part II—Section 3, dated the 29th December, 1953:—

Page	Serial number	Name of Constituency	Column	Lines	Corrections
1	2	3	4	5	6
TABLE A—PARLIAMENTARY CONSTITUENCIES					
3588	5	Ujjain	3	5 to 9	For "Jaora pargana (excluding patwar circles Nos. 30, 33 to 51 and 58 to 64), of Ratlam district." read "patwar circles Nos. 30, 33 to 51 and 58 to 64 in Jaora pargana, of Ratlam district."
TABLE B—ASSEMBLY CONSTITUENCIES					
3591	11	Gwalior	3	5 & 6	For "and Dairy Farm area" read "Jail area and Dairy Farm area"

NEW DELHI,

S. SEN,

Dated the 14th January, 1954. Chief Election Commissioner.

[58/11/53]

By order,

P. S. SUBRAMANIAN,

Secretary.

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EXTRAORDINARY

PART II—Section 3

PUBLISHED BY AUTHORITY

No. 14] NEW DELHI, THURSDAY, JANUARY 21, 1954

ELECTION COMMISSION, INDIA

NOTIFICATION

New Delhi, the 8th January 1954

S.R.O. 235.—Whereas the election of Shri Man Singh, as a member of the Legislative Assembly of the State of Rajasthan, from the Jamuwa-Ramgarh Constituency of that Assembly, has been called in question by an Election Petition duly presented under Part VI of the Representation of the People Act, 1951 ("LIII of 1951), by Shri Roop Chandra Sogani, S/o. Shri Joharilalji, Moti Singh Poria Road, Jaipur and Shri Mangilal, S/o Shri Chhaganlal, Village Paleda, Dist. Jamuwa-Ramgarh;

And whereas the Election Tribunal appointed by the Election Commission in pursuance of the provisions of Section 86 of the said Act, for the trial of the said Election Petition has, in pursuance of the provisions contained in section 103 of the said Act, sent a copy of its Order to the Commission;

Now, therefore, in pursuance of the provisions of Section 106 of the said Act, the Election Commission hereby publishes the said Order of the Tribunal.

IN THE ELECTION TRIBUNAL, JAIPUR.

ELECTION PETITION No. 227/7 of 1952

Shree Roop Chandra Sogani and another—*Petitioners.*

Versus

Rawat Man Singh and others—*Respondents.*

SENT:

The Hon'ble Mr. Justice K. K. Sharma, *Chairman.*

Mr. A. N. Kaul, *Member.*

Mr. P. L. Shome, *Member.*

Mr. G. C. Kasliwal for respondent, No. 4, Mr. Amritlal Jain.

Mr. H. P. Gupta for the respondent, No. 1.

ORDER

Dated 2nd December, 1953

tion petition was filed by Shree Roop Chandra Sogani, (hereinafter to be referred to as Mr. Sogani) who was a candidate for election to the Rajasthan Legislative Assembly from the Jamuwa Ramgarh Constituency, and one Mangi Lal, said Constituency, for setting aside the election of Respondent Singh, to the Rajasthan Legislative Assembly from the Jamuwa Constituency at the last General Elections.

The petitioners' case was that the nomination paper of Mr. Sogani was improperly rejected by the Returning Officer on the ground that the name of the Assembly was not entered in the nomination paper. It was averred that this improper rejection of the nomination paper had materially affected the result of the election, and, therefore, the election was void, and should be set aside. One other ground was also taken that the returned candidate, Rawat Man Singh, (hereinafter to be referred to as respondent No. 1) was a Jagirdar, and consequently held an office of profit, and was, therefore, disqualified from standing as a candidate. It was averred that the result of election had been materially affected by this improper acceptance of his nomination paper, as well.

A number of objections were taken by the respondent No. 1. Mr. Govind Narain Jhalani (hereinafter to be referred to as Mr. Jhalani), Mr. Kanhaiyalal Saxena (hereinafter to be referred to as Mr. Saxena), and Mr. Amritlal (hereinafter to be referred to as respondent No. 4) did not file any reply.

The following issues were raised on the reply filed by respondent No. 1:—

1. Whether the petitioner No. 1's nomination paper was improperly rejected because the name of the State Legislative Assembly for which the petitioner stood as a candidate was not mentioned therein?
2. If so, whether the result of election has been materially affected by this rejection?
3. Whether the respondent No. 1 held an office of profit within the meaning of Article 191 of the Constitution of India and was as such disqualified for standing as a candidate to the Legislative Assembly?
4. If so, whether the result of election has been materially affected by the acceptance of the nomination paper of respondent No. 1?
5. Whether the election petition is bad having been made jointly by a candidate and an elector?
6. Whether this Tribunal is not properly constituted?"

So far as issue No. 6 is concerned, this Tribunal has already decided it by its judgment, dated 21st January, 1953, which is annexed hereto and marked "Annexure A".

After the framing of the issues Mr. Sogani as well as respondent No. 1 filed their lists of witnesses, but thereafter Mr. Sogani became absent. As it was found that the other petitioner, Shri Mangi Lal, had not been served, it was ordered on the 16th of February, 1953, that the case be taken up on the 27th February, 1953, after notice to Shree Mangi Lal. Shree Mangi Lal, after service did not appear on the 27th February, 1953, nor did Mr. Sogani appear; but counsel obtained an adjournment on the ground that he wanted to ascertain from Mr. Sogani whether he would like to prosecute the case. Time was given on 5th March, 1953, for the same, but that day counsel of Mr. Sogani made a statement that he had no instructions from him. An application was filed by D. L. Bhargava, Advocate, on behalf of Mr. Sogani only for the cancellation of the Vakalatnama of Mr. Sogani in favour of Mr. B. S. Sharma and Mr. D. Bhandari, counsel who represented him till then. An application was, however, made by respondent No. 4 on that day praying that he be transposed as petitioner, in the alternative, allowed to prosecute the election petition, and the *ex parte* order, which had been made against him, be set aside. An objection was taken at once by Mr. H. P. Gupta, counsel for respondent No. 1, to the application of respondent No. 4, and it was prayed that the petition be dismissed for default. The application of respondent No. 4 and the objection of respondent No. 1 were heard, and decided by the judgment of this Tribunal, dated 31st March, annexed hereto as "Annexure B". Although respondent No. 4 was not transposed as petitioner, yet he was allowed to prosecute the petition. Against this order the respondent No. 1 filed an application for a writ, order or direction under Article 226 of the Constitution of India, but the same was dismissed by the Rajasthan High Court, Jaipur, on 20th October, 1953. An application for appeal to the Supreme Court was filed in the Hon'ble High Court by respondent No. 1, but that was also dismissed.

Now we have recorded the evidence produced by respondent No. 1. Issues Nos. 3, and 4 were not pressed by learned counsel for respondent No. 4, and issue No. 5 was not pressed by learned counsel for respondent No. 1. Hence, they need not be discussed, and are decided against respondent No. 4 and respondent No. 1 respectively. Only issues Nos. 1 and 2 have been contested and evidence has been produced thereon, and we decide them.

2. That Mr. Sogani was a covering candidate for Mr. Jhalani, and would have withdrawn from the contest even if his nomination paper had been accepted, in case Mr. Jhalani's nomination paper was accepted.
3. That Mr. Sogani canvassed for Mr. Jhalani throughout the election.
4. That Mr. Sogani had no influence in Jamwaramgarh Constituency, and had absolutely no chance against respondent No. 1.

We have considered the arguments of both the learned counsel. We find from the written reply of the respondent No. 1, which was filed as far back as 5th January, 1953, that he had raised the point that Mr. Sogani was only a covering candidate of Mr. Jhalani, and even if the nomination of Mr. Sogani had been accepted, he would not have contested the election, and would have withdrawn his candidature. It has also been expressly pleaded that Mr. Sogani, his friends and relatives had throughout the election been present in the constituency, and had canvassed and exercised their influence for Mr. Jhalani, and in spite of the combined efforts of the petitioner and Mr. Jhalani, the latter lost very badly, that Mr. Sogani had in fact no influence in the Constituency, and was unknown to the electors of the Constituency, and that the petition was filed simply to harass the respondent No. 1. We may first of all mention that the entire electorate in the Constituency numbered about 65,000, out of which about 14,000 voted. Out of the 14,000 voters, about 7,400 voted for respondent No. 1, while about 4,200 voted for Mr. Jhalani and about 1,800 for Mr. Saxena, the third contesting candidate. Mr. Amrit Lal Jain had withdrawn his candidature after his nomination paper was accepted, and the nomination paper of another Mr. Kanhaiyalal had been rejected. Thus only three candidates were left in the field, who got the above number of votes. Mr. Saxena lost even his security. All this is quite clear from the un rebutted evidence of respondent No. 1, which could be easily rebutted by the petitioner by filing the election returns. Rawat Man Singh, while in the witnesses box, appeared to us to be quite a frank and straightforward witness, and he did not exaggerate or mince matters. For many things he could have stated that he had personal knowledge, but he frankly stated that he had none. His demeanour was not that of a witness who stretches everything in his favour. We are, therefore, perfectly satisfied that the number of votes given by him above is perfectly correct. It would thus be found that there was a very wide margin of votes between Mr. Jhalani and respondent No. 1, and Mr. Jhalani was defeated by about 3,200 votes. It was not contended on behalf of respondent No. 4 that Mr. Sogani, if he had been allowed to contest would have got more votes than respondent No. 1 got. It has also not been contended that Mr. Sogani would have been able to bring to poll many of the voters who did not exercise their franchise. All that has been argued is that he would at least have been able to fitch away a large number of votes from among the votes cast in favour of respondent No. 1, and would have thus enabled Mr. Jhalani to come out successful. With the background of the votes cast in favour of each of the three contesting candidates, we have to examine if the four points raised by the learned counsel for respondent No. 1, stated above, have been satisfactorily made out by the evidence on record. To our mind, if these points are made out, then with the background of the number of votes cast in favour of all the three contesting candidates it would be difficult to hold that the result of election has been materially affected.

Coming to the four points raised by Mr. H. P. Gupta, the first is that Mr. Jhalani and Mr. Sogani belonged to one political group, and there was no likelihood of their contesting against each other. The evidence on this point is that of Mr. Gopi Nath Gupta, R. 1/W. 14, and Mr. Shyam Behari Lal Saxena, Advocate, R. 1/W. 6. Mr. Gopi Nath was a private secretary of Mr. Hira Lal Shastri. He has stated that both Mr. Sogani and Mr. Jhalani left Congress when Mr. Shastri left it in 1951. He has stated that Mr. Jhalani was for some time Head Master of Vanasthali Vidya Pith, founded and run by Mr. Shastri, and he became its principal, when its status was raised to an Inter College. He has further said that before the General Elections, Mr. Hira Lal Shastri was called to Delhi, and thereafter a compromise was arrived at, according to which 12 to 13 persons belonging to Mr. Shastri's party were given Congress ticket, and that one of these 12 to 13 persons was Mr. Jhalani. Mr. Shyam Behari Lal Saxena has also stated that Mr. Sogani and Mr. Jhalani both belong to Shastri group, and that Mr. Sogani was the chief man of Shastri group, and could not stand against the Congress. The respondent No. 4 has admitted in his evidence that Mr. Jhalani, Mr. Sogani and Mr. Hiralal Shastri were first members of the Praja-mandal, and then became members of the Congress, and that both Mr. Sogani and Mr. Jhalani left Congress before the General Elections. He has also admitted that Vanasthali Vidya Pith was founded and is being run by Mr. Hira Lal

Shastri. He has also admitted that after leaving the Congress party, Mr. Hira Lal Shastri formed a party of his own, and that Mr. Jhalani joined that party when it was formed. He further admitted that there was some compromise between the Congress party and the Praja Party for the purposes of the last General Elections, and as a consequence of that compromise Mr. Jhalani was given the Congress ticket for a seat in the Rajasthan Assembly. It is clear from all this evidence, especially from that of Mr. Shyam Behari Lal Saxena, who is an Advocate of standing, and whose evidence there is no reason to disbelieve, that Mr. Jhalani and Mr. Sogani both belonged to Shastri group. It will also be clear when the other three points are discussed presently that Mr. Sogani was very much interested in the return of Mr. Jhalani and worked seriously for him. The first point is, therefore, to our mind, made out very satisfactorily in favour of respondent No. 1.

Coming to point No. 2, there is the evidence of Mr. Gopi Nath, which shows in an unambiguous manner that Mr. Sogani had told him that if Mr. Jhalani's nomination paper were accepted, he would withdraw in his favour. He was cross-examined with great zeal on this point, but he maintained that he was positive that Mr. Sogani had told him so. He also stated that Mr. Sogani gave his reason for his intention for withdrawing that he did not think it necessary to stand when Mr. Jhalani was contesting the election. From his position as private secretary of Mr. Shastri at the material time, this witness had every opportunity of knowing what was the understanding between Mr. Jhalani and Mr. Sogani. Mr. Shyam Behari Lal, witness No. 6 for respondent No. 1, also stated that because his nephew Kanhaiyalal Saxena was standing as one of the candidates from the same Constituency, he approached Mr. Sogani a week before the date of filing of nomination papers, and asked him whether he was seriously contesting the election, and he replied that he was not serious about the election, and that it was Mr. Jhalani who would contest the election on behalf of the Congress Party. He has further stated that he met Mr. Sogani in the evening of the day when the nomination papers were filed, and at that time Mr. Sogani told him that it was only by way of joke that he had his nomination paper. Of course, Mr. Shyam Behari Lal has not stated that he knew or was told that Mr. Sogani would withdraw in favour of Mr. Jhalani even if his nomination paper were accepted, yet his statement gives great support to the statement of Mr. Gopi Nath, and at any rate shows that Mr. Sogani was not at all serious for contesting the election.

Adverting to point No. 3, a number of witnesses have been produced on behalf of the respondent No. 1 to show that Mr. Sogani was canvassing support for Mr. Jhalani after the nomination paper of Mr. Jhalani was accepted and Mr. Sogani's nomination paper was rejected. For this the evidence is of Hanuman Sahai, Ummaid Singh, and Suraj Narain. All these three witnesses say that a Congress meeting was convened at Bagwara in support of Mr. Jhalani, and that meeting was addressed, among others, by Mr. Jhalani, Mr. Sogani, and Mr. Suraj Narain. They have all stated that all the speakers exhorted the audience that votes should be cast in favour of the Congress candidate. It has not been contended on behalf of respondent No. 4 that the evidence of these witnesses is false. Only it has been argued that they belong to one village only, and the conditions prevailing in one village only could be no guide to the conditions prevailing all over the Constituency. This will be seen later on, but it is perfectly clear that Mr. Sogani addressed public meetings in favour of Mr. Jhalani at Bagwara. Similarly, the evidence of Suraj Narain shows that at Achrol also Mr. Sogani came in connection with election propaganda for Mr. Jhalani, and that he asked him to work for Mr. Jhalani. Similarly, there is the evidence of Bhonrilal, a resident of Daulatpura, which shows that Mr. Jhalani and Mr. Sogani both went to his village together, and asked for votes for Mr. Jhalani. There is the evidence of another witness, Prabhu Singh, who is a resident of Chandwaji. He stated that a Congress meeting was convened in support of Mr. Jhalani, and it was addressed, among others, by Mr. Jhalani, and Mr. Sogani, and all of them exhorted the voters to vote for the Congress. His evidence also shows that once more Mr. Sogani was seen in that village after he had addressed the meeting and before polling canvassing support for Mr. Jhalani. There is a witness from Manpura, named Bal Singh, who has stated that Mr. Jhalani and Mr. Sogani both visited his village in connection with the election, and that they had come to ask for vote for the Congress, but he told them that his village had decided to vote for Ram Rajya Parishad. The evidence discussed above has not been criticised as false, and there is no reason to disbelieve the statements of all these witnesses. It was, however, argued, as has been said above, that they were all from a certain sector of the Constituency, and the evidence coming forward from that sector could not throw any light as to what was happening in the rest of the constituency.

it may be true, but it is clear that in a number of villages Mr. Sogani canvassed support for Mr. Jhalani, and even addressed meetings. This shows that Mr. Sogani was very much interested in Mr. Jhalani. This circumstance read in conjunction with the evidence discussed above, goes to support the case of respondent No. 1 that Mr. Sogani was not a candidate, who was serious about his election, but had been put up simply to enable a man of Mr. Hira Lal Shastri's party to contest the election, in case Mr. Jhalani's nomination paper was rejected.

Coming to the fourth point, there is no evidence on record whatsoever to show that Mr. Sogani wielded any influence in Jamwaramgarh constituency. The evidence is the other way that he was not even known in many of the villages of the constituency. Mr. Sogani is a resident of Jaipur City and was Secretary of the Jaipur City Congress Committee. Although he was a member of the Representative Assembly of the old Jaipur State, yet it has been proved by the evidence of respondent No. 1 that he had been elected from Amber Constituency. Thus it appears that Mr. Sogani had not much influence in Jamwaramgarh Constituency, even if he had any influence at all. As an independent candidate Mr. Sogani had hardly any chance of getting any substantial number of votes in the constituency, even if he had contested the election, much less a chance of transferring about 1,600 votes out of the votes cast in favour of respondent No. 1 to Mr. Jhalani in order to tilt the balance in favour of Mr. Jhalani. It is clear that Mr. Jhalani had stood as a candidate on behalf of the Congress, and even in the old Jaipur State he had been elected from the Jamwaramgarh Constituency to the Legislative Council. If with the support of Mr. Sogani and of the Congress, a member, who had previously been returned to the Legislative Council of the old Jaipur State, was defeated by as many as 3,200 votes as against respondent No. 1, what chance could there be for Mr. Sogani to materially affect the result of the election. We have no hesitation in holding that, in the circumstances of the present case, the result of the election has not at all been materially affected by the rejection of the nomination paper of Mr. Sogani.

The petition is, therefore, dismissed, but as it has been held in favour of the petitioner and respondent No. 4 that the nomination paper was improperly rejected, the parties shall bear their own costs.

(Sd.) KUMAR K. SHARMA, *Chairman.*

(Sd.) ANAND NARAIN KAUL, *Member.*

(Sd.) P. L. SHOME, *Member.*

The 2nd December, 1953.

ANNEXURE "A"

IN THE ELECTION TRIBUNAL, JAIPUR

ELECTION PETITION No. 7 OF 1952

(Shri Roop Chandra Sogani Vs. Rawat Mansingh and others).

Objection by Rawat Man Singh, respondent No. 1, regarding the Constitution of the Tribunal.

PRESENT:

The Hon'ble Mr. Justice K. K. Sharma—*Chairman.*

Mr. A. N. Kaul—*Member.*

Mr. P. L. Shome—*Member.*

Mr. H. P. Gupta, for Rawat Man Singh, respondent No. 1.

Shri Roop Chandra Sogani in person.

Mr. K. S. Hajela, Advocate-General, Rajasthan.

ORDER

Dated the 21st January, 1953

By the Tribunal (Per Hon. Mr. Justice K. K. Sharma).

An objection has been taken in his written statement by Rawat Man Singh, respondent No. 1, to the constitution of this Tribunal. It is embodied in para. 17 of the additional pleas, and is to the following effect:—

- (a) That on the resignation of Shri K. C. Gupta from Chairmanship of the Tribunal, the Tribunal ought to have been reconstituted, and not that Mr. Justice K. K. Sharma should have been appointed as Chairman in his place.

- (b) That ~~there~~ cannot be any Tribunal without Chairman, and ~~in~~ between the period from the resignation of Shri K. C. Gupta upto the appointment of Mr. Justice K. K. Sharma, only a member, namely, Shri A. N. Kaul, ~~could not constitute the Tribunal, and could not keep it alive.~~
- (c) That Shri A. N. Kaul was appointed a member before the appointment of the present Chairman and the member Shri P. L. Shome, while according to law no member can be appointed before the appointment of a Chairman.
- (d) That the two Members of the Tribunal could not be separately appointed by two different orders of different dates. The appointment of Shri A. N. Kaul and Shri P. L. Shome should have been made by one order.

We have heard Mr. H. P. Gupta on behalf of the respondent, Rawat Man Singh, in support of the objection. We have also heard the petitioner, Shri Roop Chandra Sogani, in person. We have also heard Mr. K. S. Hajela, the Advocate-General of the State, whom we required to attend under section 89 of the Representation of the People Act, 1951, at the time of the hearing of the objection, considering the importance of the objection.

The argument of Mr. H. P. Gupta is that under section 86(3) of the Representation of the People Act, 1951, (hereinafter to be referred to as the Act), every Tribunal appointed under sub-section (1) of the said section shall consist of—

- (a) a Chairman who shall be either a person who is or has been a judge of a High Court.....
- (b) two other members of whom one shall be selected by the Election Commission from the list maintained under clause (a) of sub-section (2) of section 86 and the other shall be selected by it from the list maintained under clause (b) of that sub-section.

According to him, the wordings of sub-section (3), clauses (a) and (b), read with the second proviso to the said sub-section, which lays down that nothing in the said sub-section shall be deemed to prevent the appointment of a Chairman of the Tribunal before that of the other members, show that a Tribunal cannot be appointed unless a Chairman is appointed. Thereafter the other two members ought to be appointed at one and the same time. If a member of the Tribunal is appointed before a Chairman is appointed, his appointment is null and void, and the Tribunal cannot validly come into existence, even by the appointment of a Chairman afterwards. If a Chairman vacates office, the whole of the Tribunal is dissolved, and unless the appointments are made afresh of the two other members after the appointment of the new Chairman, a valid Tribunal cannot come into existence. In this case it is argued that after Mr. K. C. Gupta, the former Chairman, vacated office, the whole of the Tribunal was legally dissolved, and Mr. A. N. Kaul did not remain a member of the Tribunal. After the appointment of the present Chairman the appointment of Mr. A. N. Kaul ought to have been made afresh, and at the same time the appointment of the Advocate member ought also to have been made. The fact that after the appointment of the present Chairman, the appointment of Mr. A. N. Kaul was not made afresh and the appointment of the Advocate member alone was made subsequently, makes the Tribunal improperly constituted. It has, therefore, no jurisdiction to proceed with the case.

It has been argued by the petitioner on the contrary that there is nothing in the Act to show that the Chairman as well as the two other members ought to be appointed at one and the same time. The wordings of the second proviso to sub-section (3) of section 86 show, without doubt, that a Chairman can be appointed before any other member is appointed. There is also nothing to show that the two other members ought to be appointed by one and the same order, or that after a previous Chairman vacates office or becomes incapable of acting as Chairman, the whole Tribunal is dissolved, and the appointment of the other members ought to be made afresh after the appointment of the new Chairman. It has been argued that similar words as appear in sub-section (3) of section 86 of the Act occurred in section 220, clause (1) of the Government of India Act, 1935, which provided that "every High Court ... shall consist of a Chief Justice and such other judges as His Majesty may from time to time deem it necessary to appoint". Chief Justice Sir Courtney-Terrell of the Patna High Court unfortunately died when he was in England on leave. Before another Chief Justice was appointed in his place, an objection was taken by one of the parties that the Bench of the High Court, which had heard the case, could not pronounce judgment therein as the High Court was not in existence on that day on account of the death of the Chief Justice and in the absence of the appointment of another Chief Justice in

his place. It was held that it was wrong to say that during the interval, no properly constituted High Court remained, (*vide* Emperor V. Sohrai Koeri and another*).

The learned Advocate-General also took up the same line of arguments, which was adopted by the petitioner.

I After carefully considering the arguments on behalf of both the sides, we are unable to uphold the objection raised by respondent No. 1. Section 86, sub-section (1), provides that the Election Commission shall appoint an Election Tribunal for the trial of an election petition, if the petition is not dismissed under section 85. Sub-section (3) of the said section says that every Tribunal which is appointed under sub-section (1), shall consist of a Chairman and two other members. There is no provision in the Act which goes to show that after the Chairman of a Tribunal appointed under section 86 relinquishes his office, the Tribunal ceases to exist, although the other members do not give up their office. In such a case, only the office of the Chairman becomes vacant, and the vacancy can be filled up by the appointment of any person who is entitled to become a Chairman under sub-section (3)(a) of section 86. It is wrong to say that the Tribunal ceases to exist as soon as the Chairman or any one of its members relinquishes his office or is otherwise incapable of sitting on the Tribunal. Under section 14(1) of the General Clauses Act, where, by any Central Act or Regulation made after the commencement of the Act any power is conferred, then, unless a different intention appears, that power may be exercised from time to time as occasion requires. The Representation of the People Act 1951 is a Central Act, therefore, the provisions of the General Clauses Act apply to it. The Election Commission has been given the power by section 86 to appoint a Chairman and two other members of an Election Tribunal. It has, therefore, the power to exercise that power of appointment from time to time as occasion requires. On the relinquishment of his office by Mr. K. C. Gupta, who was appointed as Chairman by the Election Commission, the Election Commission had the power to make a fresh appointment in his place. The appointment of the present Chairman, therefore, after the relinquishment of office by Mr. K. C. Gupta was validly made. On the relinquishment of his office by Mr. K. C. Gupta, the case arose only of a vacancy in the Chairmanship of the Tribunal. The Tribunal did not automatically come to an end on the relinquishment of his office by the former Chairman. Mr. A. N. Kaul, therefore, who was appointed one of the other two members by the Commission, did not cease to be a member of the Tribunal by reason of the relinquishment of his office by Mr. K. C. Gupta. The provisions of sub-section (3) of section 86 are similar to those of clause (1) of section 220 of the Government of India Act, 1935. Only the word "Chairman" is used in place of the words "Chief Justice", and "two other members" in place of "such other Judges". After a criminal case had been heard by a Division Bench consisting of Manohar Lall and Chattarji J. of the Patna High Court (Emperor V. Sohrai Koeri and another), and before the judgment was pronounced, Sir Courtney-Terrell C. J., who was in England on leave unfortunately died. No other Chief Justice having been appointed either substantially or to act in his place, the counsel for the accused took an objection that the Bench could not proceed to deliver the judgment, as no High Court was in existence on the date fixed for the pronouncing of the judgment on account of the death of the previous Chief Justice and the non-appointment of any other Chief Justice in his place. This objection was, however, repelled, and it was observed that

"In the case of a vacancy caused by death, some time must necessarily elapse before a new appointment is made. It will be preposterous to hold that during that interval there is no properly constituted High Court. The vacancy in any office implies that the office exists. Vacancy must be distinguished from abolition of the office. When a Chief Justice dies the office does not die with him but still continues. It only remains vacant until it is filled up."

It was further observed that

"So long as the office is not abolished the constitution remains unbroken and unchanged. The only effect of the vacancy in the office of Chief Justice, so long as it continues, is that there will be nobody to perform his duties unless the Governor General appoints some one of the other Judges to do the same."

Similarly, in the present case, the Tribunal did not cease to exist simply by reason of the vacancy having occurred by the relinquishment of his office as Chairman by Mr. K. C. Gupta. The Tribunal remained in existence, and Mr. A. N. Kaul remained to be a member of it. Only there was nobody to perform the duties of

the Chairman during the interval between the relinquishment of his office by Mr. K. C. Gupta and the appointment of the present Chairman. Mr. A. N. Kaul, however did not do any work of the Tribunal during that interval. If he had done it, a question could have been raised as to whether it was validly done.

Moreover, in the notification dated 19th September, 1952, by which the present Chairman was appointed, it has clearly been mentioned that the appointment of the new Chairman was made in partial supersession of the notification dated 31st July, 1952, appointing Mr. K. C. Gupta as the Chairman and Mr. A. N. Kaul as one of the other members of the Election Tribunal. This clearly shows that the appointment of Mr. A. N. Kaul to the Tribunal was reaffirmed, and the notification was only partially superseded in so far as the post of Chairman was concerned. It may be noted also that once a person is appointed as a member of a Tribunal, there is no provision in the Act for his removal, except by his own act of relinquishment of membership or by some act of God making it impossible for him to perform his functions. Mr. A. N. Kaul, therefore, once having been appointed a member, continued as such, whatever other changes there might have been in the constitution of the Tribunal. We are, therefore unable to hold that there is no legal appointment of Mr. A. N. Kaul to this Tribunal, and, therefore, it is not validly constituted.

Our attention was drawn to sub-section (4) of Section 86 of the Act in order to show that the provision for the filling up of the vacancy in the membership of the Tribunal during the course of the trial has been made, but not for the filling up of the vacancy in the post of the Chairman. It was, therefore, argued that if the Chairman went out of the Tribunal either by death or relinquishment of his office or for some other reason, the Tribunal itself ceased to exist, and no question of the filling up of the vacancy of the Chairman arose. In such a case the Tribunal should be constituted afresh. We are unable to agree with the contention of the learned counsel for the respondent that the word "member" in sub-section (4) of section 86 of the Act refers only to one of the two other members and not to the Chairman. The Chairman of an Election Tribunal is just as such a member of any of the other two members. If it were not so, the word "other" in clause (b) of sub-section (3) of section 86 would have been redundant. If the Chairman were not to be deemed to be one of the members of the Tribunal, the words in clause (b) would have been "two members" and not "two other members". The use of the word "other" clearly shows that the Chairman is also considered to be one of the members of the Tribunal.

It was further argued that a provision had been made specifically for the filling up of the vacancy during the course of the trial, but no such provision had been made for the filling up of the vacancy before the trial begins. It should, therefore, be taken that the Legislature did not intend that any vacancy should be filled up before the trial began, and that the intention was that by dint of one or two vacancies, the whole of the Tribunal came to an end, and, therefore, a fresh Tribunal had to be appointed. This argument does not appear to have any force. As has been said above, under section 14(1) of the General Clauses Act, any power conferred under any Central Act may be exercised from time to time as occasion requires. If two members of a Tribunal are appointed, and a vacancy occurs in the post of one member only, the occasion requires that that vacancy should be filled up, and not that the appointment should be made to the other post as well, which has not fallen vacant. It does not sound reasonable to suggest that every time a vacancy occurs, the appointment should be made of the entire Tribunal and it should be repeated again that the other member or members, who have not relinquished office or have not become incapable of functioning, are appointed members of the Tribunal. If the Legislature had intended anything like that, it would have been clearly mentioned that before the trial begins the Election Tribunal ceases to exist as soon as a vacancy arises in the post of the Chairman or one of its other members, and that the Tribunal shall be constituted over again, and members appointed to it afresh. The reason why a specific provision has been made in the case of a vacancy during the trial is that unless it is specifically provided that on the new member joining the Tribunal, the trial shall be continued as if he had been on the Tribunal from the commencement of the trial, trial *de novo* might become necessary. By mentioning that the vacancy can be filled up during the trial, and once it is filled up the trial shall be continued as if the new member had been on the Tribunal from the commencement of the trial, the necessity for a trial *de novo* is obviated, unless the Tribunal thought it fit to recall and re-examine any of the witnesses already examined. In the case of a vacancy arising before the trial, it was not specifically mentioned because no question of *de novo* trial arises. The work done before the trial begins is more or less of a routine character, and it was not necessary to emphasise that on the new member or Chairman joining the Tribunal it shall be considered as if he had been on the Tribunal from the appointment of the Tribunal.

Coming to another argument of the learned counsel for the respondent, it was argued by him in any case the appointment of two other members ought to have been made at one and the same time. As the appointment of Mr. A. N. Kaul and the advocate member were made at different times, the Tribunal is not legally constituted. We do not find anything in the Act which would go to show that the appointment of the two other members should be made at one and the same time. All that is provided is that the Tribunal shall consist of two other members of whom one shall be selected by the Election Commission from the list maintained under clause (a) and the other from the list maintained under clause (b) of sub-section (2) [vide sub-section (3) of section 86]. It is not provided that these two other members should be appointed by one and the same order at one and the same time. Mere appointment of a Chairman is enough to start the work of the Tribunal according to the second proviso to sub-section (3) of section 86. The two other members may be appointed at one and the same time or at different times before the trial begins. In the present case, the third member of the Tribunal, namely, Mr. P. L. Shome, was appointed before the trial began, and, therefore, it cannot be said that the Tribunal is in any way illegally constituted.

In our opinion, the objection has no force, and it is overruled.

(Sd.) KUMAR K. SHARMA, *Chairman*.

(Sd.) ANAND NARAIN KAUL, *Member*.

(Sd.) P. L. SHOME, *Member*.

ANNEXURE "B"

IN THE ELECTION TRIBUNAL, JAIPUR

ELECTION PETITION No. 7 of 1952

Shri Roop Chandra Sogani and others—*Petitioners*.

Versus

Rawat Man Singh and others—*respondent*.

PRESENT:

The Hon'ble Mr. Justice K. K. Sharma—*Chairman*.

Mr. A. N. Kaul—*Member*.

Mr. P. L. Shome—*Member*.

ORDER

Dated, the 31st March, 1953

In this Election petition, Shri Roop Chandra Sogani, a candidate for election to the Rajasthan Legislative Assembly from the Jamwa Ramgarh Constituency, and one Mangi Lal, an elector of the said constituency, as petitioners, seek to set aside the election of Respondent No. 1, Rawat Man Singh, on the ground that the nomination paper of the petitioner No. 1, Roop Chandra Sogani, had been improperly rejected by the Returning Officer, that the nomination paper of the respondent No. 1, Rawat Man Singh was illegally accepted and that the result of the election has been materially affected thereby. There are four respondents in the petition of whom the respondent No. 1 is the returned candidate; the respondents Nos. 2 and 3 also contested the election, but the respondent No. 4 withdrew his candidature.

After the Election Petition was transferred to the present Tribunal for trial, the petitioner No. 1, Roop Chandra Sogani appeared before the Tribunal on several dates, but the case had to be postponed as the service on all the respondents could not be effected, till on the 17th December 1952, the case came up for hearing. On that day, the petitioner No. 1 was present in person and the respondent No. 1 was represented by his counsel. The other respondents, though duly served, did not appear and an order was passed directing that the case should proceed *ex parte* against them.

On the application of the counsel for the respondent No. 1, time was given to him to file written statement upto 6th January 1953, and on this date the written statement was filed. The petitioner No. 1 was present in person along with his counsel, Shri D. M. Bhandari, and in his presence and in the presence of respondent No. 1's counsel issues were framed and the parties were directed to submit their respective lists of witnesses and also summonses and other requisites within a week if they wanted to summon their witnesses through court.

One of the issues in the case i.e. issue No. 6, raised a question as to the proper constitution of the Tribunal and arguments on the issue were heard in the presence of the petitioner himself and the counsel for the respondent No. 1, and it was decided in favour of the petitioner on the 21st January 1953. The arguments on that issue were made by the petitioner himself.

After the decision of the issue, referred to above, the further hearing of the case was adjourned to 23rd January 1953. On the last mentioned date when the case was called on for hearing in the presence of the petitioner and the counsel for respondent No. 1, it was found that none of the parties had filed their lists of witnesses, as directed by the order of the Tribunal dated the 6th January 1953, nor did they take any steps to get any of their witnesses summoned through court. The parties were thereupon directed to file the said lists by the 30th January and also to file summonses and other requisites on that date, if they wanted to summon any of their witnesses through court. On the 30th January the petitioner No. 1 filed a long list of witnesses numbering 244 and by a separate petition prayed for summonses upon some of the witnesses and the Tribunal on the 31st January 1953, directed the issue of summonses as prayed for and fixed 16th February, 1953, for the petitioner's evidence and 17th February for the respondent's evidence.

On the 16th February 1953, when the case was called on for hearing, Shri H. P. Gupta, counsel for respondent No. 1, was present but the petitioner No. 1, Roop Chandra Sogani, was found absent, and his counsel, Shri D. M. Bhandari, and Shri B. S. Sharma, who were present said that they had no instructions. On an examination of the record it was found that the petitioner No. 2, Mangilal had not been served with notice of hearing of the petition after the receipt thereof in this Tribunal, and under the circumstances the case was adjourned to 27th February, 1953, and in the mean time notice was directed to be served on the said Mangilal informing him of the adjourned date of hearing and of the fact that the petitioner No. 1 was not prosecuting the case. On the 27th February 1953, the said Mangilal, though served with notice, did not appear and Shri B. S. Sharma, counsel for the petitioner No. 1, stated that he had got a letter from his client but he was not satisfied about the authenticity thereof and as such he wanted to ascertain from his client personally as to whether he wanted to proceed with the case and prayed for some time. Time was accordingly granted to him till the 5th March 1953. On the 5th March, an application was presented on behalf of petitioner No. 1, in the following terms:—

"In the above case I hereby cancel and withdraw the authority given by me to Shri Daulatmal Bhandari and Brij Sunder Sharma, Advocate, to appear, act and plead on my behalf. The said Advocate will henceforth be not entitled to appear, plead and act on my behalf."

This application had been signed by Roop Chandra Sogani himself, but it was filed in court through Shri Damodarlal Bhargava, another Advocate and in the Abhibhashan Patra (Vakalnama) which was filed engaging the said Shri Damodarlal Bhargava as Advocate on his behalf, the said petitioner empowered him only to present the abovementioned petition for cancellation of authority and power and gave him no other powers.

At this stage, Respondent No. 4 Shri Amritlal, entered appearance and on his behalf, Shri G. C. Kasliwal, Advocate, filed an application stating that he would have himself filed an election petition challenging the election of the respondent No. 1, but for the fact that the petitioners had presented the Election Petition, that as the petitioners were prosecuting the petition, and he had identical interests with the petitioners in the matter, he did not think it necessary to attend the court and allowed the proceedings to proceed *ex parte* against him, that it had now transpired that the petitioners had colluded with the respondent No. 1, and were absenting themselves from the trial and he, the respondent No. 4, was now desirous of prosecuting the case in the interest of justice and therefore prayed that the *ex parte* order against him be set aside and he be permitted to prosecute the case either as respondent or by transposing him to the category of a petitioner. He further prayed in the alternative that notwithstanding the default of appearance on the part of the petitioners, the case may be proceeded with and decided on merits and he be permitted to join in the trial.

Shri H. P. Gupta, Counsel for the respondent No. 1, objected to the aforesaid prayer of the respondent No. 4 and the matter was adjourned to the 9th March for hearing. Arguments of the parties were heard on the 9th and 10th March 1953, and the points which now arise for decision of the Tribunal are as follows:—

- (1) Whether in view of the default in appearance on the part of the petitioners, the case should be dismissed for default.

- (2) Whether the Tribunal can and should proceed with the trial of the case, in spite of the default of appearance on the part of the petitioners.
- (3) Whether the *ex parte* order against the respondent No. 4 should be set aside and whether the said respondent should be allowed to take part in the proceedings in the case; and
- (4) Whether the respondent No. 4 should not be transposed to the category of petitioner.

Points Nos. 1, 2 and 3.—Shri H. P. Gupta for the respondent No. 1 contends that in the circumstances of the present case, the provisions of Order 9, Rule 8 of the Code of Civil Procedure, would apply and in terms thereof the Tribunal has no option but to dismiss the case for default. He further contends that Order 9, Rule 8 C.P.C. applies not only to the first hearing of a case but to all hearings and as such the provisions of Order 17 will not apply to the case and that in any case, if Order 17 applies, Rule 2 thereof would apply and not Rule 3, as the adjournment was not at the instance of the parties, and none of the parties were called upon to do anything for further prosecution of the case. In support of his contention, Shri H. P. Gupta cited certain decisions of Election Commissioners in connection with Election Petitions filed under the Old Law under the Government of India Act. These decisions are:—

- (1) Burdwan Central General Rural Constituency—*Mohitosh Saha Versus U. C. Mahtab* and others reported in *Sen and Poddar's Indian Election Cases* at p. 249.
- (2) Burdwan North East General Rural Constituency—*Girindra Kumar Chatterjee Versus Rai Saheb Jogendra Nath Roy*, reported in *Ibid* at p. 251.
- (3) Feni Mohommedan Rural Constituency—*Md. Sadek Versus Abdul Razzak*, *Ibid* p. 310.
- (4) Nawabshah South Mohammedan Rural—*Ali Mohammad Khan Versus Sardar Bhadur Jan Md.*, *Ibid* p. 620.

Shri G. C. Kasliwal for the respondent No. 4, on the other hand, contended that Election Tribunals stand on a somewhat different footing than ordinary Civil Courts and had ample powers to pass such orders as the justice of the case may require and for a proper inquiry as to whether the election has been free and fair, and he referred to the following two cases:—

- (1) Dera Ismail Khan North Mohommedan Constituency—*Amir Md. Khan Vs. Atta Md. Khan*, reported in *Doabia's Election Cases*, Vol. I at p. 98.
- (2) Decision of the Patiala Election Tribunal (under the present law) in *Lahri Singh Vs. Attarsingh & others* (Badhra-Satnali Constituency) reported in *India Gazette*, dated 5th February 1953, Part II, Sec. 3, p. 315.

On the basis of the said decisions he argues that the Tribunal should proceed under Order 17, Rule 3 C.P.C. and proceed to decide the case on the merits notwithstanding the default of appearance on the part of the petitioners. On a reference to the facts of the case, as narrated above, it will be noticed that the issues in the case were framed on the 6th January 1953 and the hearing of one issue *viz.* Issue No. 6, began on the 7th January 1953 and the same was disposed of on the 21st January 1953, and the case was adjourned for hearing on the other issues. There is no doubt therefore, that the hearing of the case had begun and the subsequent dates on which the case came up, were for an adjourned hearing. It is well settled that Order 9 C.P.C. does not apply to a case where the plaintiff or defendant had already appeared, but has failed to appear at an adjourned hearing of the suit. In such a case the procedure, which applies, is laid down in Order 17, which deals with adjournments. Reference may be made in this connection to the case of *Enatulla Basunia Versus Jiban Mohan Roy*, I.L.R. 41 Calcutta Series p. 956.

Coming next to Order 17 C.P.C. the question arises as to whether Rule 2 or Rule 3 thereof would apply to the case. Rule 2 of that order lays down that, where on any date to which the hearing of the suit is adjourned, the parties or any, of them fail to appear, the court may proceed to dispose of the suit in one of the modes directed in that behalf by Order 9 or make such other order as it thinks fit. Rule 3 of the said Order lays down that where any party to a suit to whom time has been granted fails to produce his evidence or to cause the attendance of his witnesses or to perform any other act necessary for the further progress of the suit, for which time has been allowed, the Court may notwithstanding such default, proceed to decide the suit forthwith.

The effect of Rule 2 of Order 17, is that it assimilates the procedure in cases of default of appearance at an adjourned hearing, with that in cases in which there is default of appearance at the first hearing, and the remedies prescribed under Order 9 are available to the aggrieved party. Rule 3 of the Order 17, gives an additional power to the court to proceed to decide the suit forthwith, without granting further adjournment and the effect of such decision would be that it would be a decree on the merits and appealable as such and the remedies prescribed under Order 9 in respect of *ex parte* hearings and *ex parte* decrees will not be available to the aggrieved parties.

The circumstances to which Rule 2 or Rule 3 of Order 17 would respectively apply have been the subject of judicial decisions and it has been held in above mentioned case of Enatulla Besunia Vs. Jiban Mohan Roy that the distinction between the two rules is that the former rule applies to hearings adjourned at the instance of the Court while the latter applies to hearings adjourned at the instance of a party to whom time has been allowed to do some act to further the progress of the suit but who has made default.

It is thus clear that whether Rule 2 or Rule 3 applies to a case, the Court has got three alternatives (1) to dispose of the suit in one of the modes directed in that behalf in Order 9, (2) to proceed to decide the suit forthwith, or (3) to pass such other order as it thinks fit. The remedy of the aggrieved party against any such order would depend upon the circumstances as would justify the application of the provisions of Rule 2 or Rule 3. It may be pointed out that the word used as regards the power of the court in either case is "may" and not "shall", so that the court is not bound to dismiss a suit when a default occurs, as in the case under Order 9, Rule 8.

When on the 16th February 1953, to which date the case was fixed for the hearing of the remaining issues, the petitioner No. 1 was found absent, the Tribunal passed an order directing issue of notice on the petitioner No. 2, who, it was then discovered, had not got notice of the hearing at all, and that may be taken to be an order under the last clause of Order 17 Rule 2. No final order of dismissal, even if permissible, could be passed on that day. The Tribunal was not bound to apply the provisions of Order 9 to dismiss the case and it did not do so. In pursuance of the Tribunal's last mentioned order, when on the next date, the Counsel for the petitioner No. 1 prayed for time to ascertain the real intention of his client, there was no real non-appearance and adjournment to the next date i.e. the 5th March, can be said to be at the instance of the petitioner No. 1. On the 5th March, the petitioner No. 1 also appeared through an Advocate though for a limited purpose. At that stage, the respondent No. 4 appeared and applied to be allowed to take part in the proceedings and to be transposed to the category of the petitioner. The interests of the respondent No. 4 and the petitioners of the Election Petition were identical and in view of the prayer made by the former and in the circumstances that have happened in the case, it is doubtful whether it is a case of non-appearance at all, meriting forthwith dismissal for default.

Even if it be taken that the case does not come under Order 17 Rule 3, it certainly comes within Order 17 Rule 2. It was argued by the learned counsel for the respondent No. 1, that Order 17 Rule 2 applies only if the adjournment is granted at the request of the party. It was argued that looking to the words of Rules 1 and 3 of Order 17 it appears that Rule 2 also applied to a case where adjournment is given at the instance of a party. We are unable to accept this contention. The words in Rule 3 are "Where any party to a suit to whom time has been granted fails to produce his evidence or to cause etc.", whereas the words used in Rule 2 are simply "to which the hearing of the suit is adjourned". Rule 2 does not say that the suit is adjourned at the instance of any party. There is no reason why we should qualify the words "adjourned with any words like at the instance of party etc." Thus, in any case, the provisions of Order 17 apply and the Tribunal was not bound to dismiss the petition either on the 16th February 1953, or on the 5th March 1953. It was in the discretion of the Tribunal to adopt any of the modes provided in Order 9 or to make such other order as it thought fit. It was contended by the learned counsel for the respondent No. 1 that such other order could be only an adjournment. We do not think that the expression "such other order" in Rule 2 should be narrowed down to mean only an order of adjournment. In the present case, before any final order could be made in the case, one of the respondents who claims to be as much interested in the petition as the petitioners themselves, appeared before the Tribunal and expresses his desire to prosecute the case. It cannot be denied that if an order of *ex parte* hearing had not been made against him he had a perfect right to appear in the case and produce whatever evidence he wanted to produce on the issues in the case. There are several kinds of civil suits in which the defendants are as much interested in the plaintiff's case as the plaintiff himself. They are

e.g. partnership suits, partition suits etc. It cannot be denied that in such suits a defendant may produce evidence in support of the plaintiff's case. Election cases too are, in our opinion, of the same nature. Election petitions are not the concern merely of the parties, as in the case of an ordinary Civil suit. They are matters of public importance involving the rights of the entire constituency and it has been held that the summary dismissal of an election petition for non-appearance of the petitioner on the analogy of dismissing a suit in default for non-appearance of the plaintiff under Order 9 Rule 8 C.P.C. would be contrary to the spirit of the election law. (*vide* Dera Ghazi Khan North Mohammadan Constituency—Amir Md. Khan Vs. Atta Md. Khan—Doaba's Election Cases, Vol. L.P. 98).

Reference may also be made to the case of Lahri Singh Vs. Attar Singh (Badhra-Satnali Constituency) decided by the Patiala Election Tribunal and reported in the India Gazette dated 5th February, 1953, Part II, Section 3, at p. 315. In this case the respondent No. 6 had filed a written statement supporting all the grounds made by the petitioner and at the stage of the trial he claimed the right to produce evidence in support of the grounds made by the petitioner in addition to what evidence the petitioner himself might choose to produce. The ground on which this prayer on behalf of the respondent No. 6 was made was that due to certain influences, the petitioner was likely to join hands with the returned candidate and that the petitioner was indifferent to the proper prosecution of the petition and was holding back the available evidence in support of the petition. The Tribunal by its Order, which is printed as Annexure "A" at p. 325 of the report, held that the respondent No. 6 was entitled to produce evidence in proof of the grounds already made by the petitioner, and the respondent No. 6 was allowed to adduce evidence in support of all the grounds raised in the petition. The reason for the decision was that the Tribunal were of the view that the provisions in the Representation of the Peoples Act, 1951 (hereinafter to be referred to as the Act) as regards election petition were made with the purpose of ensuring that elections should be free and fair and that elections, which are not found to have been so, should be set aside. Then referring to the relevant sections of the Act, regarding the persons who have the right to call an election in question, the wide powers given to the Election Tribunals to collect all the necessary materials and to examine any person *suo motu*, the provisions regarding withdrawal and abatement of election petition, the power of the Tribunal to refuse an application for withdrawal if it appeared to be induced by unlawful bargain or consideration, the Tribunal state at p. 327 as follows:—

"The Legislature could not, therefore, have intended to leave the Tribunal powerless in the matter of having a fair and effective trial of the petition in order to determine if the election had been fair and free or not, when as is alleged in this case, the petitioner, though not openly withdrawing the petition is trying collusively to keep back the available evidence for substantiating the grounds taken in the petition. To shut out reception of such evidence on the ground that it was being produced not by an allegedly unwilling petitioner but by one of the respondents, would be tantamount to encouraging such petitioner in his unhelpful attitude towards the Tribunal and in his attempt to prevent a fair and effectual trial of the election petition."

In the four cases relied on by the learned counsel for respondent No. 1, the question of dismissal for default did not arise in the manner and in the circumstances that have arisen in the present case before us. No other interested party offered to carry on the proceedings and prove the case made out in the petition. The first two cases viz. (1) Mahitosh Shah *Versus* U. C. Mahtab and others, Burdwan Central General Rural Constituency, Sen and Poddar's Indian Election Cases, p. 249 and (2) Girindra Kumar Ghatterjee *Versus* Rai Saheb Jogendra Nath Roy—Burdwan Division North-East General Rural Constituency 1940—*Ibid* p. 251,—were cases of simple non-appearance of the petitioners, and the Tribunal had no option but to dismiss them. No question was raised that Order 17 Civil Procedure Code applied. In the third case—viz. Md. Sadeque *Versus* Abdul Razzaque Maulvifeni Muhammadan Rural Constituency, 1937,—*Ibid* p. 310, the petitioner was asked to furnish additional security and he failed to do so. The Tribunal, therefore, held relying on the Hosangabad case (Hammond p. 407), that the principle laid down in Order 17, Rule 3, and Order 25, Rule 2 C.P.C. would apply and dismissed the petition "on the ground that the security required has not been furnished". In the fourth case viz. Ali Mahomed Khan Atta Mohamed Khan *Versus* Sardar Bahadur Jam Jan Mahomed Khan Mahomed Sharif Juneja—Nawabshah South Muhammadan Rural Constituency, 1937—*Ibid*, p. 620, an application for withdrawal of the petition was filed jointly by the two parties, but the Tribunal refused to grant leave to withdraw as it was of the view that there was an element

of bargaining connected with the withdrawal petition. The Tribunal held that no express provision has been made in the Rules for a case like this; Order 9 Rule 8, C.P.C. would apply and holding that the absence of the petitioner amounts to failure to support the petition and as the petitioner does not claim the seat, the Tribunal had no power to go into the recrimination petition. In that case there was no question whether the case came under any of the rules of Order 17. Taking it for granted that Order 9 C.P.C. applied the Tribunal held that as the default had been committed by the petitioner under Rule 8, the Tribunal had no power but to dismiss the petition. No question arose as to whether any of the respondents, who was referred to prosecute the petition, could be allowed to do that or not.

On a reference to the various provisions of the Act, which we shall presently notice we are disposed to agree with the views of the Patiala Election Tribunal in the case of *Lehri Singh Versus Attar Singh*, quoted above, so far as it goes to show that in case the petitioner is found negligent or misbehaving, anyone of the respondents, who wants to support the plaintiff's case, may be allowed to do that. By section 82 of the Act, it has been provided that all the duly nominated candidates shall be joined as respondents to the petition. Under section 90 after a copy of the petition is published in the Official Gazette any other candidate, who has not been joined as a respondent can, at any time within 14 days after such publication come in and claim to be joined as a respondent and the Tribunal shall join him as respondent subject to the provisions of security for costs from a respondent u/s 119. It is thus clear that the legislature wanted to make a provision to give an opportunity to all the duly nominated candidates as well as other candidates who might apply u/s 90(1) to take part in the proceedings arising out of the election petition. It is not necessary that all the respondents should be interested in defending the case against the petitioner. Some of them may be interested in the success of the petition and as a matter of fact all the candidates excepting the successful ones, are normally interested in the success of the petition. If, therefore, anyone of such respondents wants to support the petition, the door cannot be shut against him. We should say that it is not only proper but necessary in the interest of justice that in a case where the petitioner shows slackness or deliberately wants to defeat his petition a respondent, who expresses a desire to support the petition, should be given full chance to support it. From a careful reading of the Act we find that it has been the anxiety of the legislature that an election petition should not be defeated on account of the indifference or deliberate action of the petitioner. That is why provision has been made in the case of withdrawal of petition that the Tribunal should not allow the withdrawal if it thinks that such application has been induced by any bargain or consideration which ought not to be allowed. When an application for withdrawal is made, the Election Tribunal has been required to publish notice of withdrawal in the official gazette and to give notice to all other parties to the petition of the date of hearing of the application for withdrawal. Even if withdrawal is granted a further notice of withdrawal is required to be published in the official gazette and if within 14 days of such publication a person, who might have been a petitioner, comes forward and presses to be substituted in place of the petitioner the Tribunal shall be bound to substitute him, of course on such terms as it thinks fit.

It was argued that there are specific provisions for allowing interested persons to come forward and be substituted for the petitioner. But in a case of default no such provision has been made. It is true but we have referred to the provisions relating to the withdrawal simply to emphasize that the anxiety of the legislature was that an election petition should not be defeated like an ordinary civil suit by the negligence or misconduct of the petitioner. We are not adopting the procedure laid down in the case of withdrawal of petitions. In the present case we are concerned with the fact whether we should allow a party who is already on record to take such steps as he thinks proper for enabling the Tribunal to do justice in the case. We, therefore, see no reason why we should not make an order allowing the respondent No. 4, Amrit Lal to take part in the proceedings.

It was finally argued that at any rate an *ex parte* order has been made against him and it cannot be set aside unless valid grounds are made out for the setting aside of the order. There is the view of some High Courts that when only an *ex parte* order has been made against a defendant but no decree is passed the defendant can come in and take part in the proceedings at any stage before the case is decided. Of course, it has been held that he would be allowed to take part in the proceedings from the stage at which he appeared. Unless the *ex parte* order has been set aside he would not be relegated to the position which he might have occupied in the absence of the *ex parte* order. On this view we can allow the respondent No. 4 to take part in the proceedings from the stage at which he

appeared and prayed for being allowed to take part in the case even without setting aside the *ex parte* order. The only proceedings that had taken place before he came in was that an issue relating to the constitutionality of the Tribunal had been decided. No hearing of any other issues had begun much less concluded before he applied to be allowed to take part in the case. But even if it be necessary to set aside the *ex parte* order before he is allowed to take part in the proceedings we are satisfied that he has shown a good cause for his non-participation in the case before he ceased to take any interest in the case. He is as much interested both as a voter as well as a candidate in the success of the petition as the petitioners themselves. He had no necessity to come in and prosecute the case so long as the petitioners were taking interest therein, as he had only to support the petition and not to oppose it. When he found that the main petitioners were trying to defeat the petition by their conduct, the necessity arose of his coming before the Tribunal for the prosecution of the petition. There can be no doubt that the petitioner is deliberately trying to defeat his petition and is not fair enough to give an opportunity to the other respondents or other persons who might have been entitled to file the election petition to prosecute the case in the case the petitioners had applied for withdrawal. It is not a case where the petitioner is unable due to any sufficient cause to appear in court. He made an application through a counsel to have his previous Vakalatnama in favour of Shri B. S. Sharma and Shri D. M. Bhandari cancelled and was cautious enough to mention in his Vakalatnama in favour of Mr. Damodar Lal Bhargava that he was engaged only for the purpose of having the previous Vakalatnama in favour of Messrs. B. S. Sharma and D. M. Bhandari cancelled. From this conduct of his it is quite clear that he wants to throttle the Election Petition and at the same time wants to keep other interested persons from coming in. Under the circumstances it would be very unjust to the constituency to disallow a party in the case from looking after the interests of the constituency and seeing that justice is done on merits in the case. To our mind the respondent No. 4 has been able to show good cause for having the *ex parte* order set aside.

Point No. 4.—In view of the fact that we are setting aside the *ex parte* order and allowing respondent No. 4 to take part in the proceedings we do not consider it necessary now to go into the question whether he can be transposed as a petitioner in the case.

The application of respondent No. 4 is allowed, the *ex parte* order made against him is set aside and he is allowed to prosecute the case provided he files cash security of Rs. 300, within a week from today for any probable costs of the respondent No. 1 in case the petition is dismissed

(Sd.) KUMAR K. SHARMA, *Chairman*.

(Sd.) A. N. KAUL, *Member*.

(Sd.) P. L. SHOME, *Member*.

ANNEXURE 'C'

IN THE ELECTION TRIBUNAL, JAIPUR

ELECTION PETITION No. 227 of 1952

7

Shri Roop Chandra Sogani and another—*Petitioners*.

Versus

Rawat Man Singh and others—*Respondents*.

Application dated 14th November, 1953, on behalf of Rawat Man Singh, raising an objection that Shri Amrit Lal respondent No. 4, who was allowed to prosecute the case provided he deposited Rs. 300 within a week on 31st March, 1953, has not done so, and praying that he be not allowed to proceed with the case.

(Date of Order, 14th November, 1953)

PRESENT

The Hon'ble Mr. Justice K. K. Sharma—*Chairman*.

Mr. A. N. Kaul—*Member*.

Mr. P. L. Shome—*Member*.

Mr. G. C. Kasliwal for Shri Amrit Lal.

Mr. H. P. Gupta for Rawat Man Singh.

This is a petition by Rawat Man Singh, respondent No. 1. The respondent No. 4, Amrit Lal, was ordered to deposit Rs. 300 in cash within a week from the

date of the order, which was 31st of March, 1953. The contention of Mr. H. P. Gupta on behalf of respondent No. 1 is that according to the order respondent No. 4 could deposit the cash security only upto the 8th of April, 1953, and as he deposited the security on the 7th, he did not comply with the order of the Tribunal, and, therefore, he is not entitled to take advantage of that order. In support of his contention, Mr. Gupta cited the rulings in the cases of Commissioner of Income-tax v. Ekbal & Co. (1) and Secretary of State v. Malik Amir Mohammad Khan (2). On behalf of the respondent No. 4, Mr. G. C. Kasliwal relied upon the decisions in the cases of Puran Chand v. Mohd. Din and others (3) and Ramchandra Govind Unavne v. Laxman Sevleram Ronghe (4), as also upon the wording of section 9 of the General Clauses Act. It was argued that the principle enshrined in section 9 of the General Clauses Act was a salutary one, and even in cases where the General Clauses Act did not apply in terms, the principle laid down in the section ought to be applied, and has, therefore, been applied in the two rulings cited above.

We have considered the arguments of both the learned counsels. Section 9 of the General Clauses Act lays down that in any Central Act or Regulation made after the commencement of the Act it shall be sufficient for the purpose of excluding the first in a series of days or any other period of time to use the word 'from', and, for the purpose of including the last in a series of days or any other period of time to use the word 'to'. If the case were governed by section 9 of the General Clauses Act, there would have been no difficulty whatsoever. But in the present case, we have not to interpret the word 'from' in any Central Act or Regulation. Therefore, section 9 of the General Clauses Act does not apply to the present case in terms. However, it has been held in the case of Ramchandra Govind Unavne v. Laxman Sevleram Ronghe (4) quoted above, that

"It is desirable for the sake of uniformity that the same interpretation should be given to an expression occurring in a judicial order as would be given to it in a statute under Section 9, General Clauses Act. Where therefore in an execution of a decree judgment-debtor is asked to deposit a sum within fifteen days from a certain date, that date has to be excluded."

In the Lahore case of Puran Chand v. Mohd. Din and others (3) also quoted above, it was held that

"The General Clauses Act embodies a principle of equity which should be applied to decrees apart from statutes. As the date from which one reckons may be either inclusive or exclusive, the period to be reckoned should exclude the day mentioned."

In that case the decree was for Rs. 6,000, and a condition was incorporated in the decree that the said amount be deposited in court "within three months from to-day", the date of the decree being 18th April, 1933. The deposit was made on the 18th of July, 1933, and it was held that it was within time. These two decisions are direct authorities in support of the contention of the learned counsel for respondent No. 4. In neither of the rulings cited on behalf of respondent No. 1 the Court was required to interpret the words "within so many days from to-day". In the case of Commissioner of Income-tax, v. Ekbal & Co. (1) the Court was concerned with interpreting the words "not less than 30 days" in section 22(2) of the Income-tax Act, and it was held that "not less than 30 days" was outside the two points of time, that is the point at which the period began and the point at which it expired. The Court was not required to interpret the words "within 30 days from a certain date". The only thing which was observed was that there was a difference between the two expressions "within 30 days" and "not less than 30 days". This ruling is, therefore, no authority for the point before us. As regards the ruling of the Lahore High Court in the case of Secretary of State v. Malik Amir Mohammad Khan (2) cited on behalf of respondent No. 1, there is nothing in the judgment which goes to interpret the expression "within so many days from a particular date". There notice of appeal was served on the respondent on the 22nd of September, 1932. The respondent did not file any cross-objections within one month of his service. It appears that thereafter the interest of one of the respondents devolved on one Malik Amir Mohammad Khan, and the appellant presented an application under Order XXII, Rule 10, of the Code of Civil Procedure for leave to continue the appeal against him personally, and for issue of notice to him. Notice was accordingly issued to Malik Amir

(1) A.I.R. 1945 Bombay 316.

(2) A.I.R. 1933 Lahore 653.

(3) A.I.R. 1935 Lahore 291.

(4) A.I.R. 1938 Bombay 447.

Mohammad Khan, and it was served in February, 1935. Within one month of his service, he filled cross-objections. It was held that the cross-objections were not within time, as they were not filled within one month from the date of the service, that is, 22nd September, 1932, of the previous notice. This ruling too is, therefore, no authority upon the interpretation of the words "within so many days from a particular date".

To our mind the interpretation put upon the words, which are the subject matter of interpretation in this case, in the Lahore and Bombay rulings cited on behalf of respondent No. 4 is the correct interpretations, and should be adopted. The objection to our mind has no force and is dismissed.

(Sd.) KUMAR K. SHARMA, *Chairman.*

(Sd.) A. N. KAUL, *Member.*

(Sd.) P. L. SHOME, *Member.*

[No. 19/227/52-Elec. III/485.]

By Order,

P. R. KRISHNAMURTHY, *Asstt. Secy.*

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EXTRAORDINARY

PART II—Section 3

PUBLISHED BY AUTHORITY

No. 15] NEW DELHI, FRIDAY, JANUARY 22, 1954

ELECTION COMMISSION, INDIA

NOTIFICATION

Rewa, V.P. the 13th January, 1954

S.R.O. 332.—In pursuance of the provision of sub-section 2 of Section 109 of the Representation of People's Act, 1951, notice is hereby published with regard to an application for withdrawal (given below), which will come up for hearing on 9th February, 1954.

IN THE COURT OF ELECTION TRIBUNAL VINDHYA PRADESH AT REWA

ELECTION PETITION No. 8/187 of 1952

1. Tilakraj Singh, son of Gulab Singh, Resident of Waidhan District Sidhi Elector No. 444 Patwari Halka Waidhan, Supervisor Kanungo Circle Gird, Tahsil Sigrault District Sidhi.
2. Bisheshar Singh, son of Bhondu Singh, Resident of Bhagra Mamla Tahsil Bandhogarh District Shahdol Elector No. 1 Bhagra Mamla, Patwari Halka Umaria Supervisor Kanungo Circle Chandia Tahsil Bandhogarh District Shahdol.
3. Bhagwandas son of Daya Lal, Resident of Shahdol Elector No. 508 Circle No. 1. Municipal Board Shahdol District Shahdol, Petitioners.

Versus

1. Bhagwan Dutta Shastri aged about 30 years son of Hari Bhusan, Resident of Katra Rewa.
2. Randaman Singh, son of not known, Resident of Gijawar P.O., Majhaur District Sidhi.
3. Lala Ram Ratanji Gupta aged about 45 years son of Lala Beharilal, Resident of 20/204 Chatai Mohal Kanpur.
4. Puranmal aged about 37 years son of Dhanraj, Resident of Village Kotma P.O. Kotma District Shahdol.
5. Rajiv Lochan son of Ramnarain Agnihotri, Resident of Village Rajarwar P.O. Madhogarh District Stana, V.P.
6. Premji Nigam son of Madho Prasad Nigam aged about 25 years, Resident of Town Shahdol District Shahdol, Respondents.

Application under Sec. 109 R. P. Act.

Sir,

The Petitioners in the above petition beg to withdraw the above petition and pray that the permission for the same may be given.

*The 12th January, 1954.**Petitioners,*

(Sd.) RAMESH PRATAP SINGH,

*Counsel for Petitioners.*E. MUKARJI, *Chairman.*J. K. KAPOOR, *Member.*U. S. PRASAD, *Member.*

[No. 5.]

P. R. KRISHNAMURTHY,
for Chief Election Commissioner.

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EXTRAORDINARY

PART II—Section 3

PUBLISHED BY AUTHORITY

No. 16] NEW DELHI, SATURDAY, JANUARY 23, 1954

ELECTION COMMISSION, INDIA

NOTIFICATION

New Delhi, the 23rd January 1954

S.R.O. 333.—In exercise of the powers conferred by sub-section (1) of section 22 of the Representation of the People Act, 1951 (XLIII of 1951), the Election Commission hereby makes the following amendment in its notification No. 62/2/51-Elec.-1951, dated the 6th November, 1951, namely:—

“Amendment

In the table appended to the said notification, for the existing entry in column (a) relating to the Saran South constituency, the entry ‘Sri Brijnandan Sinha, Deputy Magistrate’ shall be substituted.”

[No. 155/2/54(3).]

By Order,

C. L. GOYAL, Asstt. Secy.

The Gazette of India



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PART II—Section 3

PUBLISHED BY AUTHORITY

No. 17] NEW DELHI, THURSDAY, JANUARY 28, 1954

ELECTION COMMISSION, INDIA

NOTIFICATIONS

New Delhi, the 28th January 1954

S. R. O. 370.—In exercise of the powers conferred by sub-section (1) of section 22 of the Representation of the People Act, 1950 (XLIII of 1950), and in supersession of Notification No. 102/12/51-Elec. II (1), dated the 7th September, 1951, the Election Commission, in consultation with the Government of the State of Mysore, hereby directs that the Electoral Registration Officer for a Parliamentary Constituency of the said State specified in column 1 of the table below shall be the officer specified in the corresponding entry in column 2 of that table :—

TABLE

Name of Constituency	Electoral Registration Officer
1	2
1. Kolar	Deputy Commissioner, Kolar District.
2. Tumkur	Deputy Commissioner, Tumkur District.
3. Bangalore North	Commissioner, City of Bangalore Municipal Corporation, Bangalore.
4. Bangalore South	Deputy Commissioner, Bangalore District.
5. Mandya	Deputy Commissioner, Mandya District.
6. Mysore	Deputy Commissioner, Mysore District.
7. Hassan-Chikmagalur	Deputy Commissioner, Hassan District.
8. Shimoga	Deputy Commissioner, Shimoga District.
9. Chitaldrug	Deputy Commissioner, Chitaldrug District.
10. Bellary	Deputy Commissioner, Bellary District.

[No. 157/12/54 (1).]

S. R. O. 371.—In exercise of the powers conferred by section 20 of the Representation of the People Act, 1951 (XLIII of 1951), and in supersession of its Notification No. 62/12/51-Elec. II(1), dated the 26th September, 1951, the Election Commission, in consultation with the State Government, hereby directs that the Returning Officer for any of the Parliamentary constituencies in

the State of Mysore specified in column 1 of the table below shall be the officer designated in the corresponding entry in column 2 of that table :—

TABLE

Name of Constituency	Returning Officer
1	2
1. Kolar	Deputy Commissioner, Kolar District.
2. Tumkur	Deputy Commissioner, Tumkur District.
3. Bangalore North	Commissioner, City of Bangalore Municipal Corporation, Bangalore.
4. Bangalore South	Deputy Commissioner, Bangalore District.
5. Mandya	Deputy Commissioner, Mandya District.
6. Mysore	Deputy Commissioner, Mysore District.
7. Hassan-Chikmagalur	Deputy Commissioner, Hassan District.
8. Shimoga	Deputy Commissioner, Shimoga District.
9. Chitaldrug	Deputy Commissioner, Chitaldrug District.
10. Bellary	Deputy Commissioner, Bellary District.

[No. 155/12/54 (1).]

S. R. O. 372.—In exercise of the powers conferred by sub-section (1) of section 22 of the Representation of the People Act, 1951 (XLIII of 1951), and in supersession of its Notification No. 62/12/51-Elec. II(3), dated the 9th November, 1951, the Election Commission hereby appoints each of the officers specified in column 2 of the table below to assist the Returning Officer for the Parliamentary Constituency in the State of Mysore specified in the corresponding entry in column 1 of that table in the performance of his functions :—

TABLE

Name of Constituency	Assistant Returning Officer
1	2
1. Kolar	Personal Assistant to the Deputy Commissioner, Kolar District, Kolar.
2. Tumkur	Personal Assistant to the Deputy Commissioner, Tumkur District, Tumkur.
3. Bangalore North	Personal Assistant to the Commissioner, City of Bangalore Municipal Corporation, Bangalore.
4. Bangalore South	Personal Assistant to the Deputy Commissioner, Bangalore District, Bangalore.
5. Mandya	Personal Assistant to the Deputy Commissioner, Mandya District, Mandya.
6. Mysore	Personal Assistant to the Deputy Commissioner, Mysore District, Mysore.
7. Hassan-Chikmagalur	Personal Assistant to the Deputy Commissioner, Hassan District, Hassan.
8. Shimoga	Personal Assistant to the Deputy Commissioner, Shimoga District, Shimoga.
9. Chitaldrug	Personal Assistant to the Deputy Commissioner, Chitaldrug District, Chitaldrug.
10. Bellary	District Treasury Officer, Bellary.

[No. 155/12/54 (2).]

By Order,

P. N. SHINGHAL, Secy.

REGISTERED No. D. 221

REGISTERED No. D. 221

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PART II—Section 3

PUBLISHED BY AUTHORITY

No. 18] NEW DELHI, MONDAY, FEBRUARY 1, 1954

MINISTRY OF COMMERCE AND INDUSTRY

NOTIFICATION

TARIFFS

New Delhi, the 1st February 1954

S.R.O. 273.—In exercise of the powers conferred by sub-section (2) of section 1 of the Indian Tariff (Third Amendment) Act, 1953 (48 of 1953), the Central Government hereby appoints the 1st February, 1954, as the date on which clause (v) of section 2 of the said Act [relating to Item No. 63 (34) of the First Schedule to the Indian Tariff Act, 1934 (XXXII of 1934)] shall come into force.

[No. 70-T(3)/54.]

S. BHOOTHALINGAM, Joint Secy.

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PART II—Section 3

PUBLISHED BY AUTHORITY

No. 19] NEW DELHI, MONDAY, FEBRUARY 1, 1954

MINISTRY OF REHABILITATION

NOTIFICATION

New Delhi, the 1st February 1954

S.R.O. 374.—In exercise of the powers conferred by sub-section (3) of section 1 of the Transfer of Evacuee Deposits Ordinance, 1954 (6 of 1954), the Central Government hereby appoints the 1st day of February, 1954, as the date on which the said Ordinance shall come into force.

[No. 48(1)/52-N.]

K. P. MATHRANI, Joint Secy.

REGISTERED No. D, 221

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PART II—Section 3

PUBLISHED BY AUTHORITY

No. 20] NEW DELHI, WEDNESDAY, FEBRUARY 3, 1954

DELIMITATION COMMISSION, INDIA

NOTIFICATION

New Delhi, dated the 3rd February, 1954

S.R.O. 375.—WHEREAS the proposals of the Commission in respect of the distribution of the seats allotted to the Legislative Assembly of the State of Coorg to territorial constituencies and the delimitation thereof in accordance with the provisions of sub-section (2) of section 8 of the Delimitation Commission Act, 1952, were published for objections and suggestions in the Commission's Notification S.R.O. 2080, dated the 5th November, 1953 :

AND WHEREAS, at the public sitting held at Bangalore on the 2nd December, 1953, the Commission was informed that certain administrative changes in the boundaries of the nads which had already been made had not been brought to the notice of the Commission and that consequently the proposals needed some changes and modifications :

NOW THEREFORE in pursuance of clauses (a) and (b) of sub-section (3) of section 8 of the said Act, the Delimitation Commission hereby publishes the following revised proposals in respect of the distribution of seats to, and the delimitation of, Assembly constituencies in the State of Coorg and specifies the 24th February, 1954, as the date on or after which these revised proposals will be further considered by it.

Any objections or suggestions in regard to these proposals should reach the Secretary of the Delimitation Commission, (No. 2, Prithvi Raj Road, New Delhi) before the said date. It would facilitate prompt consideration if they are in English.

REVISED PROPOSALS

The territorial constituencies into which the State of Coorg shall be divided for the purpose of elections to the Legislative Assembly of the State, the extent of each constituency, the number of seats allotted to each constituency and the number of seats, if any, reserved for the Scheduled Castes or, as the case may be, for the Scheduled Tribes, in each constituency shall be as shown in the following Table :—

TABLE—ASSEMBLY CONSTITUENCIES

Serial No.	Name of Constituency	Extent of Constituency	Total number of seats	Seat reserved for	
				Scheduled Castes	Scheduled Tribes
1	2	3	4	5	6
1	Sanivarsante	SOMWARPET TALUK Sanivarsante hobli (excluding Gopalapura, Nandigunda, Heggula, Sunti, Gowdali, Malambi and forest, Doddakanagalu, 1st Bit Nidtha forest, Siddapura, Harohalli, Mylathpura, Ankanalli, Sandalkoti forest, Sidigalale, Choudenahalli, Hirhluikeri, Nidtha, Menasa and Mullur villages).	1	Nil	Nil
	Gowdali	Gopalapura, Nandigunda, Heggula, Sunti, Gowdali, Malambi and forest, Doddakanagalu, 1st Bit Nidtha forest, Siddapura, Harohalli, Mylathpura, Ankanalli, Sandalkoti forest, Sidigalale, Choudenahalli, Hirhluikeri, Nidtha, Menasa and Mullur villages in Sanivarsante hobli; and Koothi, Tholur-Shettalli, Chikkatolur, Doddatulur, Abbimatta, Yedur,	1	Nil	Nil

Serial No.	Name of Constituency	Extent of Constituency	Total number of seats	Seats reserved for	
				Scheduled Castes	Scheduled Tribes
1	2	3	4	5	6
3	Somwarpet	Kalakandur, Honnehanakadu, Chennapura, Doddamolathe and Ganagur villages in Somwarpet nad. Somwarpet nad (excluding Koothi, Tholur-Shettalli, Chikkatolur, Doddatolur, Abbimetta, Yedur, Kalakandur, Honnehanakadu, Chennapura, Doddamolathe and Ganagur villages); and Hoskote No.II, Manajur, Sirangala and Torenur villages in Fraserpet hobli.	2	1	Nil
4	Sunticoppa	Sunticoppa nad	2	1	Nil
5	Fraserpet	Fraserpet hobli (excluding Hoskote No. II, Manajur, Sirangala, Torenur, Kudlur-Shettalli, Valnur-Tyagattur, Abyathmangala and Nelliahudikeri villages).	1	Nil	Nil
VIRAJPET TALUK					
6	Ammattinad	Kudlur-Shettalli, Valnur-Tyagattur, Abyathmangala and Nelliahudikeri villages in Fraserpet hobli in Somwarpet taluk; and Ammatti nad (excluding Chennayanakote, Badaganangala, Mekur-Hosakeri and Hosur villages) in Virajpet taluk.	2	1	Nil

Serial No.	Name of Constituency	Extent of Constituency	Total number of seats	Seats reserved for	
				Scheduled Castes	Scheduled Tribes
I	2	3	4	5	6
7	Bertiathnad	Chennayanakote, Badaga-Banangala, Mekur-Hosakeri and Hosur illages in Ammatti nad ; and Gonicoppal town, and Kaikeri, Hebbale, Devamachi forest, Nokya, Mayamudi, Aruvathoklu and Holligattu villages, in Ponnampet nad.	2	Nil	1
8	Ponnampet	Ponnampet nad (excluding Gonicoppal town and Kaikeri, Hebbale, Devamachi forest, Nokya, Mayamudi, Aruvathoklu, Holligattu, Hathur, Kunda, Shettigeri and Kuttandi villages); and Begur, Mugutageri, Chikkamandur, Balyamandur and Kottur villages in Srimangala nad.	2	Nil	1
9	Srimangala	Srimangala nad (excluding Begur, Mugutageri, Chikkamandur, Balyamandur and Kottur villages).	2	Nil	1
10	Yedenalknad	Hathur, Kunda, Shettigeri and Kuttandi villages in Ponnampet nad; and Bittangala, Balugodu, Nangala, Rudraguppe, Badaga and forest and Heggala and forest villages in Virajpet nad.	1	Nil	Nil

Serial No	Name of Constituency	Extent of Constituency	Total number of seats	Seats reserved for	
				Scheduled Castes	Scheduled Tribes
1	2	3	4	5	6
11	Virajpet	Virajpet municipality, and Arji, Betoli, Kadanur, Kuklur, Aimangala and Maggula villages, in Virajpet nad.	1	Nil	Nil
12	Beppunad	Virajpet nad (excluding Virajpet municipality and Arji, Betoli, Kadanur, Kuklur, Aimangala, Maggula, Bittangala, Balugodu, Nangala, Rudraguppe, Badaga and forest and Heggala and forest villages). MERCARA TALUK	1	Nil	Nil
13	Nalknad	Napoklu nad (excluding Napoklu town and Napoklu, Bethu, Palur, Yemmamadu, Nelaji, Perur and Ballamavatti villages).	1	Nil	Nil
14	Napoklu	Napoklu town and Napoklu, Bethu, Palur, Yemmamadu, Nelaji, Perur and Ballamavatti villages in Napoklu nad; and Badaga, Bengur, Kargunda, Kadiathur, Bettakeri and Kolagadalu villages in Bhagamandla nad.	1	Nil	Nil
15	Bhagamandla	Bhagamandla nad (excluding Badaga, Bengur, Kargunda, Kadiathur, Bettakeri, Kolagadalu, Bettathur, Chembu and Sampaje villages).	1	Nil	Nil

Serial No.	Name of Constituency	Extent of Constituency	Total number of seats	Seats reserved for	
				Scheduled Castes	Scheduled Tribes
1	2	3	4	5	6
16	Sampaje	Bettathur, Chembu and Sampaje villages in Bhagamandla nad; and Monangeri and forest, Made and forest, Galibeedu and forest, Kalur, Hamiyala, Mukkodlu, Makkandur, Ibnivolavadi, Karanangeri, Hebbettageri, Kalakeri-Nidugane, Katakari and Mekeri villages in Mercara nad.	1	Nil	Nil
17	Mercara	Mercara municipality	1	Nil	Nil
18	Murnad	Mercara nad (excluding Mercara municipality and Monangeri and forest, Made and forest, Galibeedu and forest, Kalur, Hamiyala, Mukkodlu, Makkandur, Ibnivolavadi, Karanangeri, Hebbettageri, Kalakeri—Nidugane, Katakari and Mekeri villages).	1	Nil	Nil

[No. 58/20/53]

P. S. SUBRAMANIAN,

Secretary.

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EXTRAORDINARY
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PUBLISHED BY AUTHORITY

No. 21] NEW DELHI, SATURDAY, FEBRUARY 6, 1954

MINISTRY OF FINANCE (REVENUE DIVISION)

NOTIFICATION

CUSTOMS

New Delhi, the 6th February 1954

S.R.O.—467.—In exercise of the powers conferred by section 23 of the Sea Customs Act, 1878 (VIII of 1878), and in supersession of the notification of the Government of India in the Ministry of Finance (Revenue Division) No. 48-Customs dated the 22nd June, 1953, the Central Government hereby exempts sugar excluding confectionery imported into India and falling under item 17 of the First Schedule to the Indian Tariff Act, 1934 (XXXII of 1934), from so much of the duty of customs leviable thereon under the said Act as is in excess of the duty of Rs. 11-0-0 per cwt., and also from the whole of the additional duty of customs leviable thereon under section 5 of the Finance Act, 1953 (14 of 1953).

[No. 16.]

E. RAJARAM RAO, Jt. Secy.

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EXTRAORDINARY
PART II—Section 3
PUBLISHED BY AUTHORITY

No. 22] NEW DELHI, SATURDAY, FEBRUARY 6, 1954

MINISTRY OF FOOD AND AGRICULTURE

ORDER

New Delhi, the 6th February 1954

S.R.O. 468.—In exercise of the powers conferred by section 3 of the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), and in supersession of the Order of the Government of India in the Ministry of Food and Agriculture No. PY-620(11)/52-53, dated the 18th May, 1953, the Central Government hereby makes the following Order, namely:—

1. **Short title, extent and commencement.**—(1) This Order may be called the Wheat (Manufacture of Fines) (Prohibition) Order, 1954.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force at once.

2. **Definitions.**—In this Order, unless the context otherwise requires,—

(a) "the Act" means the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946);

(b) "flour mill" means any mill in which foodgrains are converted into flour by means of any power-driven machinery and includes a roller flour mill and a chakki;

(c) "fines" means *maida*, *rawa* and *sooji*;

(d) "Inspector" means any officer appointed by the Central Government to exercise the powers and perform the duties conferred or imposed on an Inspector by or under this Order;

(e) "notified Order" has the same meaning as in the Act; and

(f) "wheat products" means *maida*, *rawa*, *sooji*, *atta*, and *bran*.

3. **Prohibition of the manufacture of fines.**—No owner or person in-charge of a flour mill shall manufacture or cause to be manufactured, by any means whatsoever, any fines from indigenous wheat or from any imported wheat which is not specifically issued by the Central Government or a State Government to such owner or person-in-charge for the purpose of milling such imported wheat into fines.

4. **Power to appoint Inspectors.**—The Central Government may, by notification in the official Gazette, appoint such persons as it thinks fit to be Inspector for the purpose of this Order within such local limits as it may assign to them respectively.

5. **Power of Inspection.**—An Inspector may, with a view to securing compliance with this Order—

(a) call for such returns, information or statistics, either generally or in respect of any flour mills situated within the local limits of his jurisdiction, as he may, from time to time, direct and the owner or any person in-charge of such flour mills shall be bound to comply with any such direction;

(b) enter and search or authorise any person to enter and search any premises; and seize or authorise any person to seize any stocks of wheat or wheat products in respect of which he has reason to believe a contravention of this Order has been, is being, or is about to be, committed and any other article in the premises which he has reason to believe has been or is intended to be used in connection with such contravention;

(c) demand, in the course of inspection, from the owner or any person in-charge of such flour mill any information in his possession with respect to the business carried on in such flour mill or inspect or cause to be inspected any books of accounts or stocks or other documents belonging to or under the control of the owner or such person in relation to the said business:

Provided that where any premises or portion thereof is in the actual occupancy of a woman who, according to the customs of the country does not appear in public, any Inspector exercising the power of entry under this clause shall give notice to such woman that she is at liberty to withdraw, and after allowing a reasonable time for her to withdraw and giving her reasonable facility for withdrawing, he may enter such premises or portion thereof for the purposes of this Order:

Provided further that if any such premises or portion thereof be found locked, unoccupied or unattended, the premises or portion thereof may be broken upon in the presence of two witnesses living in the neighbourhood.

6. Submission of returns.—The owner or any person in-charge of a flour mill shall submit on the first and the sixteenth day of every month a return in the form annexed to this Order to the Inspector within the limits of whose jurisdiction the flour mill is situate showing all stocks of wheat and wheat products in his possession under each of the heads specified in the said form.

7. Mode of service of orders, requisitions and directions.—Any order, requisition or direction made or issued under this Order shall be served on the person or class of persons concerned in the manner specified in sub-section (1A) of section 3 of the Act.

FORM

(See clause 7)

Fortnightly Return to be submitted by the owner or person in-charge of every flour mill on the 1st and the 16th day of every month (in duplicate).

Name of Mill.

(Figures in maunds.)

Article	Opening balance	Receipts/ Milled	Total	Issue [(a) For wheat quantity issued for the manufacture of wheat products : and (b) for products, quantity sold]	Closing balance
1. Manufacture of fines for internal consumption. Wheat. Maida. Suji/Rawa. Resultant Atta. Bran.					
2. Manufacture of fines for export Wheat. Maida. Suji/Rawa. Resultant Atta. Bran.					
3. Manufacture of whole-meal Atta Wheat. (a) Indigenous (b) Imported Whole-meal Atta Bran.					

NOTIFICATION

New Delhi, the 6th February 1954

S.R.O. 469.—In pursuance of clause 5 of the Wheat (Manufacture of Flines) (Prohibition) Order, 1954, the Central Government hereby appoints every person specified in column 2 of the Schedule annexed hereto to be an Inspector to exercise and perform the powers and duties conferred and imposed on an Inspector by the said Order within the local limits of the jurisdiction specified in the corresponding entry of column 4 thereof.

SCHEDULE

S. No.	Name	Headquarters of the officer	Jurisdiction
1	2	3	4
1.	Shri Sampuran Singh	Calcutta	West Bengal Orissa Bihar Assam Manipur Tripura
2.	Shri H. Khurana	Delhi	Uttar Pradesh Bhopal Vindhya Pradesh Rajasthan Ajmer
3.	Shri Santosh Kumar	Hyderabad	Madhya Pradesh, Madras Hyderabad Mysore Travancore and Cochin Andhra Coorg
4.	Shri L. M. Chavan	Bombay	Saurashtra Bombay Madhya Bharat Cutch
5.	Shri K. S. Kohli	Delhi	Pepsu Punjab Delhi Himachal Pradesh

[No. PYII-656(16)/54(2).]

R. S. KRISHNASWAMY, Joint Secy.

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EXTRAORDINARY

PART II—Section 3

PUBLISHED BY AUTHORITY

No. 23] NEW DELHI, TUESDAY, FEBRUARY 9, 1954

MINISTRY OF COMMERCE AND INDUSTRY

NOTIFICATION

New Delhi, the 9th February 1954

S.R.O. 470.—In exercise of the powers conferred by sub-section (3) of section 1 of the Coir Industry Act, 1953 (45 of 1953), the Central Government hereby appoints 9th February 1954 as the date on which the said Act shall come into force.

[No. 42-Cot. Ind.(2)/52.]

H. V. R. IENGAR, Secy.

The Gazette



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EXTRAORDINARY

PART II—Section 3

PUBLISHED BY AUTHORITY

No. 24] NEW DELHI, WEDNESDAY, FEBRUARY 10, 1954

ELECTION COMMISSION, INDIA

NOTIFICATION

New Delhi, the 10th February 1954

S.R.O. 471.—Whereas the Election Commission has, under sub-section (1) of section 153 of the Representation of the People Act, 1951 (XLIII of 1951), extended the date before which the bye-election to fill the vacancy in the House of the People, caused by the death of Shri Surendra Nath Buragohain elected to that House from the Sibsagar—North Lakhimpur constituency in the State of Assam, is to be completed, to the 20th February, 1954;

Now, therefore, under sub-section (2) of the said section, the Election Commission hereby amends its Notification No. 100/1/9/53(1), dated the 9th December, 1953, by substituting the words and figures "before the 20th February, 1954" for the words and figures "before the 13th February, 1954".

[No. 100/1/9/53.]

By order,

P. N. SHINGHAL, Secy.

The Gazette of India



EXTRAORDINARY

PART II—Section 3

PUBLISHED BY AUTHORITY

No. 25] NEW DELHI, WEDNESDAY, FEBRUARY 10, 1954

ELECTION COMMISSION, INDIA

NOTIFICATION

New Delhi, the 1st February 1954

S.R.O. 472.—Whereas the election of Shri Raghuraj Singh as a member of the Legislative Assembly of the State of Madhya Bharat, from the Khilchipur East constituency of that Assembly, has been called in question by an Election Petition duly presented under Part VI of the Representation of the People Act, 1951 (XLIII of 1951), by Shri Shantilal Chowdhary, s/o Shri Hastmal Chowdhary, advocate, Rajgarh, Madhya Bharat State;

And whereas the Election Tribunal appointed by the Election Commission in pursuance of the provisions of Section 86 of the said Act for the trial of the said Election Petition has, in pursuance of the provisions contained in section 103 of the said Act, sent a copy of its Order to the Commission;

Now, therefore, in pursuance of the provisions of Section 106 of the said Act, the Election Commission hereby publishes the said Order of the Tribunal.

BEFORE THE ELECTION TRIBUNAL, AT INDORE (MADHYA BHARAT)

ELECTION PETITION No. 188/52A

Shri Amar Nath Segal, B.Sc. (Hons.), LL.B., *Chairman.*

Shri R. N. Shingal, B.A., LL.B., *Member.*

Shri M. B. Rege, B.A., LL.B., *Member.*

Shantilal Chaudhary s/o Hasatmal Chaudhary, Advocate, Rajgarh, District Rajgarh—*Petitioner.*

Vs.

1. Raghuraj Singh, s/o Dashrath Singh, resident of Khilchipur, District Rajgarh;
2. Hari Singh, s/o Fateh Singh, Sondhia village Badgaon Tappa Zirapur, Tehsil Khilchipur, District Rajgarh;
3. Vithaldas Bohra, s/o Kanhaiyalal, r/o Khilchipur, District Rajgarh;
4. Ram Parshad, s/o Ramlal Goldsmith, r/o Khilchipur, District Rajgarh;
5. Kailash Narayan, s/o Vithaldas Sharma, resident of Khilchipur, District Rajgarh;
6. Hamgilal, s/o Ramlal Goldsmith, Khilchipur, District Rajgarh—*Respondents.*

M/s. D. C. Bharucha, C. B. Sanghi and S. R. Joshi—for the *Petitioner.*

M/s. G. M. Chaphekar, W. Y. Pande—for the *Respondents.*

ORDER

The Petitioner Shri Shantilal Choudhary has challenged the Election of Respondent No. 1 Shri Raghuraj Singh, s/o Dashrath Singh on the following grounds:—

1. "That the Returning Officer wrongly accepted the withdrawal of respondent Nos. 5 and 6 as the applications for withdrawal under section 37 of the Representation of the People Act 1951, were not presented to the proper person in proper time" (Para. 6 of the petition).

2. "That the votes obtained by respondents No. 1 and 2 are void and invalid in as much as they were obtained by means of corrupt and illegal practices" (para. 5 of the petition).

3. "That the Polling Station of Ramnagar was wrongfully attached to this Constituency in direct contravention of the order of the President of India published in the Official Gazette in September 1951" (para. 17 of the Petition).

The Petition as presented to the Election Commission was accompanied by seven lists giving particulars of the alleged corrupt practices without the requisite verification at their foot. The lacuna was brought to the notice of the petitioner by the Secretary, Election Commission by his letter No. 19/188/52-Elec.III, dated 21st June 1952 whereupon the Petitioner sent to the Election Commission verifications typed on a single sheet of paper. The petition was sent to us by the Commission with the said paper and other connected papers with intimation to the petitioner that the action was without prejudice to objections which may be raised.

An objection was taken to the lists of Shri Raghuraj Singh, the sitting member who is the main contesting respondent and on 1st November 1952, we granted leave to the petitioner to add the verifications, on every single schedule. The Petitioner then presented several slips with the verification typed thereon; and by our order, dated 28th November 1952, we held that this was not a sufficient compliance with our previous order. The operative part of the order is:—

"Extension of time for filing verifications to the lists is refused. The allegations of corrupt and illegal practices which were required to be embodied in the said lists under Section 83(2) of the Representation of the People Act will not be enquired into".

Against this order the Petitioner applied to the Hon'ble High Court under Article 227 of the Constitution of India but his application was dismissed on the ground that the Tribunal had acted within its jurisdiction. The Petitioner then applied for a review of our order, dated 28th November 1952. The application purported to be under sections 151 and 153 read with order 47 Rule 1 of the Civil Procedure Code. This application was disposed of by our order, dated 18th September 1953 wherein it was held that we had no jurisdiction to review our orders under section 151 of the Civil Procedure Code and that it was only under section 114 of the Civil Procedure Code read with Order 47 Rule 1 that the power could be exercised in proper cases. It was also held that section 153 of the Code had no application. Another application for review purporting to be under Order 47 Rule 1 was also rejected by us on 3rd October 1953. Then followed an application for a re-consideration of our order of 28th November 1952 *Ex debito Justitiae* and this was dismissed by our order, dated 20th October 1953.

The Petitioner Shri Shantilal had on 20th November 1952 made an application for judgment being passed under Order 12 Rule 6 of the Civil Procedure Code on the "admissions" made by the respondents. The application was set down for hearing but in the meanwhile proceedings before us were stayed by an order of the Hon'ble High Court until the decision of the petition under section 227 above referred to. After the unsuccessful applications for review the Petitioner renewed his application, dated 20th November 1952.

On 28th November 1952, the following issues were framed on the pleadings other than the corrupt practices detailed in the lists which were excluded by our order of the same date:—

1. (i) Did the Returning Officer wrongfully accept the withdrawals of respondents 5 and 6 because they were not presented to the proper person at the proper time?

2. Was the polling station of Ramnagar attached to the Constituency No. 49 Khilchipur East in contravention of the President's orders in this behalf that has materially affected the result of the Election?

An additional issue was framed on 30th October 1953.

- 1(2) If so has the wrong withdrawal materially affected the result of the claim?

The Petitioner who argued his case himself referred to the preamble to the Constitution of India which declares the resolve of the people of India *inter alia* to secure to all citizens justice—social, economic and political and urged that our approach to the case must be in the back ground of political considerations. He relied in support of his plea on the cases of Allahabad Khan V. Sardar Mohammad Azam reported in D.I.E.C. (vol. II page 314 and 315) and Amir Mohammad Khan V. Atta Mohammad Khan (D.I.E.C. Vol. I page 98), but the decision do not support the wide proposition of the petitioner. It is true that the conduct of the trial of an Election Petition must not be left to the caprice of the parties and it ought to be the concern of the Tribunal to purge the Election of all kinds of corrupt practices and impurities so as to guard the political rights of the citizens and the Constituency; but this does not in our view justify a departure from legal principles. We are clear that political justice is concerned with the political rights of the citizen, but its administration is governed not by politics but by law, equity and good conscience.

A plea was advanced that our order, dated 28th November 1952 is *ultra vires* to the extent that the majority view, that allegations of corrupt practices in the Petition would not be enquired into was not justified as a corollary to the refusal to grant leave to add the verifications. What matters, however is the operative part of the order which barred enquiry into such *allegations as were required to be embodied, in the lists*; and that is how we have interpreted our intention of the order of the majority on 28th November 1952. Again the Petitioner had the vires of the order determined by his application to the High Court under Article 227 of the Constitution and in view of the decision therein that the order was fully within our jurisdiction, the plea of *ultra vires* is not now open to him.

As stated above we have before us an application for judgment on the admissions under Order 12 Rule 6 of the Civil Procedure Code. This raised questions on which we thought it proper to invite the learned Advocate General to help us and we owe to him an expression of our appreciation of the fair and lucid exposition of the law on the subject. Two main questions were discussed:—

1. What is the effect of the want of verification of the lists?
2. To what extent could the admissions of the respondent be considered apart from the lists?

The first question has been considered by us in our order, dated 28th November 1952 but the contention of the Petitioner is that though the lists may be held to be not proper verified, we should treat them to be a part of the petition and consider them as such. There is no force in the contention. The legislature has in its wisdom provided, that in addition to the brief reference in the petition itself, lists giving all particulars of the alleged corrupt practices must accompany the petition and such lists must be duly verified. The unverified lists filed in this case do not fulfil the requirements of law and we would be departing from legal principles were we to look into them in deciding the petition itself.

For a decision of the second question it is necessary to examine the statements relied upon by the Petitioner as admissions of the respondent. Before proceeding to examine the statements, however, we would refer to an objection raised on behalf of respondent No. 1 by Shri Chaphekar. His contention is that the alleged admissions have been made without prejudice to the preliminary objection that the lists could not be looked at as they were not duly verified.

The words "without prejudice" mean that the person simply makes an offer which if not accepted is to have no effect at all. Section 23 of the Evidence Act lays down that in Civil Cases no admission is relevant if it is either expressly stated or by necessary implication intended that no evidence of it should be given, but there is authority for the view that this Section does not cover cases of letters marked "without prejudice", as at best the words show a desire on the part of one party to have a privilege but the other party must also agree to respect it. (Lucknow Improvement Trus Vs Jaitly & Co. A.I.R. 1930 Sind 105 Madhaurao Vs. Gulas Bhai I.L.R. 22 p. 177). We think that even if privilege be claimable in

correspondence between the parties it would not apply to pleadings. Admissions pleadings provided they are explicit constitute a waiver of all controversy and limit the issues. The objection is in the circumstances of the case not tenable.

In para. 9 of his Petition, the Petitioner has alleged that "respondent 1 his agents and persons with his connivance offered, paid and promised sums of money in order to secure votes". In para. 11, he says "the election of the respondent No. 1 was materially promoted by the unauthorised publication and widespread advertisement of the decision of certain influential people". In his written statement, respondent No. 1 has denied the allegations *in toto*; but in his reply to schedule "B" para. 9 wherein particulars were given of the alleged bribery and it was alleged that the "respondent No. 1 got an appeal published in the name of various people exhorting them to vote for respondent No. 1 as it was decided by the popular leaders of the Constituency" and a leaflet described as the original appeal was attached to Schedule "B", the respondent has while denying the allegations of bribery, admitted that some prominent persons of the locality had issued an appeal and admitted the leaflet. The Petitioner contends that since the names of some Patels appear on the leaflet and since a sum of Rs. 71 appears in the Elections expenses as having been spent on printing the leaflet, it follows that a major corrupt practice has been committed. Mr. Chaphekar contends that for the purposes of the trial of the petition in any case, the particulars in the list B cannot be looked into and as regards the allegations in the petition itself there is a positive denial in the written statement.

It was suggested in the course of arguments that the provisions of the C.P. Code would not apply to the trial of Election Petitions save in the matters specially provided for and the specification was to be found in sections 92, 93 and 99 of the Representation of the People Act. We see no force in the contention. Section 90 of the Representation of the People Act provides that subject to the provisions of the Act, every Election petition shall be tried as nearly as may be in accordance with the procedure applicable under the Civil Procedure Code. It is obvious that Section 92 is intended to eliminate the possibility of the jurisdiction of the Election Tribunal being questioned as regards matters stated in Section 92 by a distinction being made between a Court and a Tribunal and that it does not limit the jurisdiction of the Tribunal to the matters mentioned therein. We are clear in the view that a judgment on admission could in proper cases be given by us provided as stated above, the admission is clear expressly or by necessary implications.

We are, however, of opinion that the alleged statements by respondent No. 1 do not amount to such admissions, the order of this Tribunal, dated 28th November 1953 excludes the consideration of the particulars in the list and there is in the written statement a complete denial of the allegation in the petition. We have given an anxious consideration to the statements even as the Petitioner would have no look at them; but as regards the leaflet, there is no admission of the Patels having signed them nor of the respondent No. 1 having taken any part in its printing or broadcasting it. A judgment cannot, therefore, be founded on the statements under Order 12 Rule 6 of the C.P.C.

On the first part of issue No. 1, we have the statement of the Petitioner who says that he was present in the Raigarh Collectorate on 26th November 1951 and that the Collector Shri Ram Singh Bawal did not reach the office till about 4.30 or 4.45 P.M. on that day. He admits, however, that he did not enquire where the Collector was. It is also strange that notwithstanding the gross illegality alleged, no protest was made on the spot although the Petitioner continued to be in the Collector's office premises till after 6 P.M. on that day. Mangilal P.W. 2 is a candidate who had presented an application for the withdrawal of his candidature. He says the Collector was not in his office till 4 P.M. when he Mangilal left the premises, and that the application was delivered by him to Shri Dulesingh, Revenue Assistant. Mangilal was a Congressman but since the disapproval of the candidate set up by the Congress he became dissident and filed his nomination as an independent candidate along with others including one Shri Ram Parshad. After the Election he returned to his fold and is now the President of the Khilchipur Pargana Congress.

P.W. 2 Madanlal says that he had gone to the Collectorate to get his symbol. He says he did not get it; but a chaprasi told him at about 2-30 P.M. or 3 P.M. that the Collector was not in. Shri D. M. Kutamble, an advocate of the Madhya Bharat High Court had also sent an application for withdrawal of nomination through his clerk Kamalkishore. His statement is hearsay. Kamalkishore says

that he with one Shri Rathī went to the Collectorate but the Collector who was the Returning Officer was not in till 3-30 P.M. and therefore, the form was presented to the office Superintendent. The witness says he left for Indore that day at 3-30 P.M. He did not know the Collector nor the Office Superintendent and his statement like that of Madanlal is not, therefore, helpful.

Bhikulal, then a Congress worker and now President of the Khilchipur City Congress says he had gone to the Additional District Magistrate's Court on 26th November 1951. This office is on the upper floor of the Collectorate. He went up without looking for the Collector at 12 noon and came down at about 4 P.M., when he saw persons who had come to present withdrawal forms. He went into the two or three rooms occupied by the Collector but could not see him. This witness is a partisan and even if he be believed his statement does not prove that the Collector was not in at the required hours viz. 3 P.M. Basantilal the President of the Khilchipur Tehsil Congress says that he was at the Collectorate from about 1 P.M. to 4 P.M. and the Collector was absent. To assure himself of the absence he went at 3 P.M. to the Collector's room and found it empty. The Revenue Assistant told him that the Collector was probably on tour. Shri Vallabh had gone presumably with Kamalkishore whom he describes as Shri Kutamle's motor driver to present Shri Kutamle's application for withdrawal. He presented the application to a clerk in the Collectorate. He says that not finding the Collector in he tendered the application to the clerks who told him that the Collector was out but would soon be returning and that the application should be presented to him. Being however in a hurry to go back he, the witness, pressed them to accept it. The doors of the Collectorate room were closed.

All the evidence for the petitioner has been commented upon by the respondent's learned counsel as being of persons who are deeply interested as belonging to the political creed of the Petitioner and that the version given by them is unnatural; and it must be said that the comment is not unfounded. We have Shree Vallabh saying that he found the doors of the Collector's room closed while Basantilal says he went through the formality of going through all the rooms of the Collectorate to discover whether the Collector was really out. Such tall statements detract from the value of the evidence, and makes it unconvincing. On the other hand the Collector Shri Ram Singh and his Election Clerk Shiv Narayan have pledged their oath that the Collector was present and in fact received the applications. There has been severe comment by the petitioner on the admission of the Collector that the endorsements on the forms are not in his hand but that of his Assistant Shri Dulesingh. It would have been prudent for the Collector to have made the endorsement in his own hand; but there is no express provision in law that the endorsements must be in the hand of the Returning Officer and the omission does not detract from the value of the evidence given by the Collector or his clerk. We would hold that there is no proof of improper presentation of the form, and in this view it is unnecessary to consider the second part of the issue.

The plea regarding transplantation of villages from the Constituency is also without substance. The India Government Gazette, dated 30th June 1951 contains the order of the President of India which was affirmed on 8th September 1951. The Petitioner's contention is that the villages of Ramnagar Constituency were put in the Zirapur Tappa by a Notification in the Madhya Bharat Gazette, dated 12th May 1951 that is prior to the notification by the President. It is however clear that the polling stations were notified in accordance with the order of the President of India and the Election was not in contravention of the notification. The Petitioner and the voters in the Constituency were not ignorant of the notification of polling stations and no protest was made. The President of India is the final authority for delimitation purposes and the notification of the State Government cannot override that of the President in matters affecting delimitation.

We have given our anxious consideration to the propriety of our enquiry *suo moto* into the allegations made by the Petitioner of corrupt practices on part of the respondents and others for the purpose of action under section 99 of the Representation of the People Act. In our opinion there is no bar to such an enquiry provided we are properly seized of the matter and there is material which could be made the foundation of the enquiry. We have in this case allegations of an appeal having been signed *inter alia* by Patels who are public servants, and of the appeal having been printed at the cost of the Petitioner. The appeal is a printed leaflet; but the original draft is not before us and there is no possibility of its being had. The bill for the printing is in the name of a person other than the petitioner and clear proof of the signatures and the complicity of respondent

No. 1 cannot be expected. We, therefore, consider it futile to embark on an enquiry particularly at this late stage.

The Petition is, therefore, dismissed. The Petitioner shall pay aggregate costs amounting to Rs. 150 to respondent No. 1 Raghuraj Singh, Rs. 75 to respondent Hari Singh and Rs. 50 to respondent Kailashnarayan.

(Sd.) AMAR NATH, *Chairman.*

(Sd.) M. B. REGE, *Member.*

(Sd.) R. N. SHINGAL, *Member.*

The 31st December, 1953.

[No. 19/188/52-Elec.III/2204.]

By Order,
P. R. KRISHNAMURTHY, Asstt. Secy.

The Gazette of India

EXTRAORDINARY

PART II—Section 3

PUBLISHED BY AUTHORITY

No. 26] NEW DELHI, FRIDAY, FEBRUARY 12, 1954

DELIMITATION COMMISSION, INDIA

NOTIFICATION

New Delhi, the 12th February 1954

S.R.O. 555.—In pursuance of clauses (a) and (b) of sub-section (3) of section 8 of the Delimitation Commission Act, 1952 (LXXXI of 1952), the Delimitation Commission hereby publishes its proposals in respect of the distribution of the seats assigned to the Legislative Assembly of the State of Ajmer to territorial constituencies and the delimitation thereof in accordance with the provisions of sub-section (2) of the said section and specifies the 5th March, 1954, as the date on or after which the proposals will be further considered by it.

Any objections or suggestions in regard to these proposals should reach the Secretary of the Delimitation Commission (No. 2, Prithvi Raj Road, New Delhi) before the said date. It would facilitate prompt consideration if they are in English.

The Commission will hold a public sitting in the Soldiers' Board Building, Civil Lines, Ajmer, on Saturday, the 13th March, 1954, at 11 A.M., when it will further consider these proposals and the objections and suggestions received by it before the 5th March, 1954.

PROPOSALS

The territorial constituencies into which the State of Ajmer shall be divided for the purpose of elections to the Legislative Assembly of the State, the extent of each constituency, the number of seats allotted to each constituency and the number

of seats, if any, reserved for the Scheduled Castes in each constituency shall be as shown in the following Table :—

TABLE

Serial No.	Name of Constituency	Extent of Constituency	Total number of seats	Seats reserved for Scheduled Castes
1	2	3	4	5
AJMER SUB-DIVISION				
1	Gagwana	Gagwana girdawar circle; and Shrinagar girdawar circle (excluding Rampura, Kanpura, Tihari and Dhal patwar circles).	2	1
2	Ramsar	Rampura, Kanpura, Tihari and Dhal patwar circles in Shrinagar girdawar circle and Ramsar girdawar circle.	1	Nil
3	Derathu	Derathu girdawar circle (excluding Nasirabad cantonment).	1	Nil
4	Nasirabad	Nasirabad cantonment in Derathu girdawar circle.	1	Nil
5	Jethana	Jethana girdawar circle (excluding the Istamrari villages mentioned in item (1) of the Appendix).	1	Nil
6	Pushkar	Such of the Istamrari villages in Jethana girdawar circle as are mentioned in item (1) of the Appendix and Pushkar girdawar circle.	2	1
7	Ajmer City I	Wards Nos. 1, 2, 6 and 7 of Ajmer municipality.	1	Nil
8	Ajmer City II	Wards Nos. 8 to 12 of Ajmer municipality.	1	Nil

Serial No.	Name of Constituency	Extent of Constituency	Total number of seats	Seats reserved for Scheduled Castes
1	2	3	4	5
9	Ajmer City III	Wards Nos. 3, 4, 5 and 21 of Ajmer municipality.	1	Nil
10	Ajmer City IV	Wards Nos. 13, 14, 15 and 32 of Ajmer municipality.	1	Nil
11	Ajmer City V	Wards Nos. 22 to 26 and 28 to 31 of Ajmer municipality.	2	1
12	Ajmer City VI	Wards Nos. 16 (including the Military Area), 20 and 27 of Ajmer municipality.	1	Nil
13	Ajmer City VII	Wards Nos. 17, 18 and 19 of Ajmer municipality.	1	Nil
KEKRI SUB-DIVISION				
14	Bhinai	Bhinai girdawar circle (excluding the villages mentioned in item (2) of the Appendix).	2	1
15	Goela	Such of the villages in Bhinai girdawar circle as are mentioned in item (2) of the Appendix; and such of the villages in Kekri girdawar circle as are mentioned in item (3) of the Appendix.	1	Nil
16	Kekri	Kekri girdawar circle (excluding the villages mentioned in items (3) and (4) of the Appendix).	2	1
17	Sawar	Such of the villages in Kekri girdawar circle as are mentioned in item (4) of the Appendix.	1	Nil

Serial No.	Name of Constituency	Extent of Constituency	Total number of seats	Seats reserved for Scheduled Castes
1	2	3	4	5
BEAWAR SUB-DIVISION				
18	Masuda	Istamrari Beawar girdawar circle (excluding the villages mentioned in item (5) of the Appendix).	2	I
19	Shyamgarh	Such of the villages in Istamrari Beawar girdawar circle as are mentioned in item (5) of the Appendix; and Shyamgarh, Suhawa, Delwara, Andhideori and Pakhriawas patwar circles in Shyamgarh girdawar circle.	1	Nil
20	Nayanagar	Shyamgarh girdawar circle (excluding Shyamgarh, Suhawa, Delwara, Andhideori and Pakhriawas patwar circles); and Nayanagar girdawar circle (excluding Jalia, Narbadkhera, Rajiawas, Atitmand and Gohana Patwar circles and Beawar municipality).	1	Nil
21	Beawar Town North	Wards Nos. 1 and 5 to 7 of Beawar municipality.	1	Nil
22	Beawar Town South	Wards Nos. 2 to 4 and 8 of Beawar municipality.	1	Nil
23	Jawaja	Jawaja girdawar circle (excluding Badkochran, Dewatan, Surajpura and Lotiyana patwar circles); and Jalia, Narbadkhera, Rajiawas, Atitmand and Gohana patwar circles in Nayanagar girdawar circle.	1	Nil
24	Todgarh	Todgarh girdawar circle; and Badkochran, Dewatan, Surajpura and Lotiyana patwar circles in Jawaja girdawar circle.	1	Nil

APPENDIX

AJMER SUB-DIVISION

(1)

Villages in Jethana girdawar circle

- | | |
|-----------------------|-------------------|
| 1. Richmalian | 9. Bharsuri |
| 2. Daulatpura Pagaran | 10. Nad |
| 3. Mewaria | 11. Partabpura |
| 4. Ratangarh | 12. Hanwantpura |
| 5. Karnos | 13. Rampura Dabla |
| 6. Dhunwaria | 14. Fatehpura |
| 7. Jetgarh | 15. Sethan |
| 8. Bakhatawarpura | 16. Pisangan |

KEKRI SUB-DIVISION

(2)

Villages in Bhinai girdawar circle

- | | |
|---|--|
| 1. Piproli | 12. Goela (including the hamlets of Sanodia and Digaria) |
| 2. Kesarpura | 13. Sholian |
| 3. Chanma | 14. Shergarh |
| 4. Rammaliyan (Reechmaliyan) | 15. Baori |
| 5. Ragunathgarh | 16. Barla |
| 6. Jotayan | 17. Shokla |
| 7. Keria | 18. Shokli |
| 8. Bargaon-Urf-Surkhand (including the hamlet of Raghunathpura) | 19. Sarana |
| 9. Jadana | 20. Jaola |
| 10. Khandra | 21. Arwar |
| 11. Satolao | 22. Manoharpura |

(3)

Villages in Kekri girdawar circle

- | | |
|--|---|
| 1. Junia (including the hamlets of Ambapura and Jalka Khera) | 6. Chhabaria |
| 2. Lassaria | 7. Deolia Khurd |
| 3. Dhunwalia | 8. Deogaon (including the hamlets of Dhulia, Shambhupura and Dayalpura) |
| 4. Naiki | 9. Karonj |
| 5. Ekalsingha | |

(4)

Villages in Kekri girdawar circle

- | | |
|---|--|
| 1. Sawar (including the hamlets of Lachhmipura, Umedpura, Baneria and Onkar-pura) | 14. Bisundni |
| 2. Ghatyali (including the hamlet of Girwarpura) | 15. Kusaita (including the hamlet of Matalao) |
| 3. Sunderpura | 16. Piplia |
| 4. Kalera | 17. Chitiawas |
| 5. Chosla | 18. Partabpura |
| 6. Chandthali | 19. Jeetpura |
| 7. Bajta | 20. Rainagar |
| 8. Deokheri | 21. Jaswantpura |
| 9. Tankawas | 22. Nemhera |
| 10. Bhandawas | 23. Napakhera |
| 11. Modi | 24. Padlia |
| 12. Rajpura | 25. Khejri |
| 13. Mehrukhurd (including the hamlet of Madhopura) | 26. Deoli (including the hamlet of Inderpura) |
| | 27. Deoligaon (including the hamlet of Borera) |

BEAWAR SUB-DIVISION

(5)

Villages in Istamrari Beawar girdawar circle

- | | |
|---|------------------|
| 1. Piplaj (including Apabai) | 14. Kirap |
| 2. Deogarh | 15. Ratangarh |
| 3. Kharwa (including the hamlets of Surajpura, Ranisagar, Ruparel, Rampura, Bhawani-pura, Gopalsagar, Gwardi, Gwardia, Jaswantpura, Chabrator, Pabuthan, Lahri, Madhogarh, Amritpura, Fatehgarh and Shobhapura) | 16. Bheronkhera |
| 4. Sarnia | 17. Manpura |
| 5. Rudlai | 18. Sabalpura |
| 6. Amargarh | 19. Moin |
| 7. Lamana | 20. Harrajpura |
| 8. Liri | 21. Karwai |
| 9. Kshipura | 22. Landi |
| 10. Mailan | 23. Bachpari |
| 11. Nasoon | 24. Bassi |
| 12. Mohanpura | 25. Bhawanikhera |
| 13. Motipura | 26. Dholadanta |
| | 27. Koompura |
| | 28. Chorsia |
| | 29. Khimpura |

[No. 58/17/53.]

P. S. SUBRAMANIAN, Secy.

The Gazette of India



EXTRAORDINARY

PART II—Section 3

PUBLISHED BY AUTHORITY

No. 27] NEW DELHI, SATURDAY, FEBRUARY 13, 1954

CENTRAL BOARD OF REVENUE

NOTIFICATION

ESTATE DUTY

New Delhi, the 13th February 1954

S.R.O. 556.—In exercise of the powers conferred by sub-section (1) of section 85 of the Estate Duty Act, 1953 (XXXIV of 1953), the Central Board of Revenue hereby makes the following rules, the same having been previously published as required by sub-section (1) of section 85 of the said Act.

1. **Short title and commencement.**—(1) These rules may be called the Estate Duty Rules, 1953.

(2) They shall be deemed to have come into force on the 15th October, 1953.

PART I—PRELIMINARY

2. **Definitions.**—In these Rules unless the context otherwise requires—

- (a) "the Act" means the Estate Duty Act, 1953 (XXXIV of 1953).
- (b) "accountable person" means any person accountable for the delivery of an account or payment of duty under the provisions of the Act,
- (c) "duty" means estate duty leviable under the Act;
- (d) "Income-tax Act" means the Indian Income-tax Act, 1922 (XI of 1922);
- (e) "India" means the territories of India excluding the State of Jammu and Kashmir.

PART II—TRANSFER OF CASES AND PROCEDURE ON TRANSFER

[Section 4(2)]

3. Where an Assistant Controller, who is an Income-tax Officer of Class II Service, or an Assistant Controller, who is an Income-tax Officer of Class I Service, or a Deputy Controller, as the case may be, finds that the principal value of the estate in any case pending before him exceeds or is likely to exceed the pecuniary limits of his jurisdiction, he shall,—

- (a) in the case of an Income-tax Officer of Class II Service, transfer the case to such Assistant Controller (being an Income-tax Officer of Class I Service) as the Controller may, by general or special order, designate in this behalf;
- (b) in the case of an Assistant Controller who is an Income-tax Officer of Class I Service, to the Deputy Controller having jurisdiction over the estate; and
- (c) in the case of a Deputy Controller, to the Controller having jurisdiction over the estate.

4. (a) The Controller, the Deputy Controller or the Assistant Controller, to whom the case of an estate has been transferred under rule 3, may continue the proceeding so transferred to him from the stage at which it stood immediately before the transfer or recommence the proceeding:

Provided that before recommencing any proceeding the accountable person shall be given a reasonable opportunity of being heard.

(b) The jurisdiction of any authority to whom the case of an estate has been transferred under rule 3 shall not be called in question merely on the ground that the principal value of the estate as determined by that authority is less than the value specified for the purpose of his jurisdiction.

5. Notwithstanding that an Assistant Controller, a Deputy Controller or a Controller is not exercising the functions of the Income-tax Officer, the Inspecting Assistant Commissioner or the Commissioner, as the case may be, in respect of the assessment under the Income-tax Act of a deceased person, he shall exercise the functions of the Controller in respect of the estate of the deceased if the case relating to the estate is specifically assigned to him under the second proviso to sub-section (2) of section 4 of the Act.

6. (1) Notwithstanding anything contained in rule 3 or in any other rule, the Board may at any stage of the proceeding relating to the case of any estate transfer it from one assessing authority to another and thereupon the provisions of rule 4 shall, so far as may be, apply.

(2) Whenever a Controller, a Deputy Controller or an Assistant Controller ceases to exercise jurisdiction in respect of any proceeding under the Act and is succeeded by another who has or exercises such jurisdiction, the Controller, Deputy Controller or Assistant Controller so succeeding may continue the proceeding from the stage at which it was left by his predecessor:

Provided that the person accountable may, when the succeeding Controller commences to exercise jurisdiction, demand that the previous proceeding or any part thereof taken before his predecessor be recommenced or that before any order imposing the duty is passed, he be re-heard.

PART III—DETERMINATION OF NATURE AND LOCALITY OF ASSETS

[Section 21(2)]

7. **Determination of nature of property.**—The nature of assets which for the purpose of duty form or are deemed to form part of the property passing on death shall be determined in accordance with the following clauses, namely:—

(a) Immovable property includes land, water covering the land, buildings, rights to ways, lights, ferries or fisheries or any other benefit to arise out of land (other than the forms of benefit for which specific provision is made in these rules) and things attached to the earth or permanently fastened to anything which is attached to the earth, but does not include standing timber, growing crops and grass.

Explanation.—Attached to the earth means—

- (i) rooted in the earth, as in the case of trees and shrubs;
- (ii) imbedded in the earth, as in the case of walls or buildings; or
- (iii) attached to what is so imbedded for the permanent beneficial enjoyment of that to which it is attached.

(b) The interest of a mortgagee in immovable property other than a mortgagee who is entitled to possession of the property under the terms of the mortgage and is actually in possession of the property, is movable property.

(c) The share of a partner in a partnership shall be treated as an indivisible asset for the purpose of determination of its nature and locality. The share of a partner in a partnership is movable property, notwithstanding that the firm owns immovable property.

(d) The interest of a member in the joint family property of a Hindu family governed by the Mitakshara, Marumakkattayam or Aliyasantana law, which ceases on his death is movable property notwithstanding that the family owns immovable property.

(e) The share or other interest of any member in a company is movable property, notwithstanding that the company owns immovable property.

(f) A debt or periodical payment secured by a charge on immovable property is movable property.

(g) The interest of a beneficiary in an undivided estate is movable property

(h) Movable property shall mean property of every description except property which is immovable

8 Location of movable property.—The locality of movable assets which for the purpose of duty form or are deemed to form part of the property passing on death shall be determined in accordance with the following clauses, namely:—

(a) Rights or interests (otherwise than by way of security) in or over immovable property shall be deemed to be situated at the place where such property is situated

(b) Rights or interests (otherwise than by way of security) in or over tangible movable property, other than such property for which specific provision is made herein and in or over bank or currency notes, other forms of currency recognised as legal tender in the place of issue, negotiable bills of exchange and negotiable promissory notes, shall be deemed to be situated at the place where such property, notes, currency or documents are situated at the time of death, or, if in transit, at the place of destination

(c) Debts, secured or unsecured and whether under seal or not, excluding the forms of indebtedness for which specific provision is made in this rule, shall be deemed to be situated at the place where the debtor was residing at the time of death, provided that if the interest on such debt was chargeable to income-tax under the Income-tax Act, it shall be deemed to be situated in India.

(d) Bank accounts shall be deemed to be situated at the branch at which the account was kept

(e) Securities issued by any government, municipality or local authority shall be deemed, if in bearer form, to be situated at the place where they are situated at the time of death and, if inscribed or registered, to be situated at the place of inscription or registration.

(f) Shares, stock, debentures or debenture stock in a company (including any such property held by a nominee, whether the beneficial ownership is evidenced by scrip certificates or otherwise) shall be deemed to be situated at the place where the company was incorporated

(g) Monies payable under a policy of assurance or insurance, whether under seal or not, shall be deemed to be situated at the place where the policy provides that the monies shall be payable or in the absence of any such provision, at head office of the company.

(h) Shares in a partnership shall be deemed to be situated at the place where the business is principally carried on

(i) Ships and aircraft and shares thereof shall be deemed to be situated at the place of registration of the ship or aircraft.

(j) Goodwill as a trade, business or professional asset shall be deemed to be situated at the place where the trade, business or profession to which it pertains is carried on.

(k) Patents, trade marks and designs shall be deemed to be situated at the place where they are registered.

(l) Copyright, franchises, and rights or licences to use any copyrighted material, patent, trade mark or design shall be deemed to be situated at the place where the rights arising therefrom are exercisable

(m) Rights or causes of action *ex-delicto* surviving for the benefit of an estate of a deceased person shall be deemed to be situated at the place where such rights or causes of action arose.

9 Location of immovable property.—The locality of immovable assets which for the purpose of estate duty form or are deemed to form part of the property passing on death shall be determined in accordance with the following clauses, namely:—

(a) Tangible immovable property shall be deemed to be situated in India, if the property actually lies in India

(b) Rights or interests in immovable property or benefits to arise out of immovable property, which are immovable property within the meaning of these rules, are situated in India, if the property to which the rights are attached or out of which the benefits arise actually lies in India

PART IV—PURCHASE OF ANNUITIES FROM RELATIVES

(Section 27)

10. Purchase of annuities from relatives.—(1) Subject to the provisions of this rule, the relief specified hereunder shall be granted where any estate duty becomes, or would but for this rule become, payable by virtue of section 27 of the Act.

(2) The sum on which duty would be payable apart from this rule on the death in respect of the property which was the subject matter of the disposition or in respect of the property liable to a debt or encumbrance created by the deceased which was the subject matter of the disposition, as the case may be, shall first be computed and, subject to the limitations provided for by sub-rule (3) of this rule, there shall then be allowed as a deduction from that sum—

- (a) the amount, if any, by which the aggregate of the payments which have been made on account of the annuity or other interest for the period from the date when the annuity or other interest began to accrue in favour of the deceased until his death, exceeds the aggregate of the income derived from the deceased by virtue of the disposition for the period from the date of the disposition until his death; and
- (b) simple interest on so much, if any, of the amount aforesaid, and for such period, as, in the opinion of the Controller, is in all the circumstances just, at the rates from time to time payable during that period on duty in arrear.

The expression “the aggregate of the income derived from the deceased by virtue of the disposition” means—

- (i) in relation to so much of the property which was the subject matter of the disposition as did not consist of a debt or encumbrance created by the deceased, such amount as, in the opinion of the Controller, is in all the circumstances equal to a reasonable return from the property; and
- (ii) in relation to so much of the property which was the subject matter of the disposition as did consist of a debt or encumbrance created by the deceased, the aggregate amount of the interest paid or payable by the deceased in respect of that debt or encumbrance.

(3) The amount to be allowed as a deduction under sub-rule (2) shall, in the circumstances mentioned hereunder, be limited to the extent specified in this sub-rule. Further, the provisions of sub-section (1) of section 46 of the Act shall, in the manner specified in this sub-rule, have effect in relation to the computation of the amount allowed—

(a) Where, if—

- (i) the annuity payments had formed the consideration for a debt created by the deceased equal to the total amount of those payments; and
- (ii) section 44 of the Act (which provides for an allowance for debts in computing the amount on which the duty is payable), were applied to that debt,

the full amount of that debt would not, having regard to the operation of sub-section (1) of section 46 of the Act, have been allowable under section 44 of the Act, the annuity payments shall, for the purpose of ascertaining the amount allowed, be reduced, so as not to exceed the amount, if any, which would have been allowable in the circumstances aforesaid under section 44 of the Act:

Provided that, in applying the said section 46 for the purposes of this rule, property which is the subject matter of the disposition shall not be treated as property derived from the deceased.

(b) Where under section 27 of the Act, a deduction for partial consideration would have been allowable in respect of the annuity or other interest, if sub-section (2) of that section had not applied to the disposition and if any other consideration for the disposition had not been given, the amount allowed shall not exceed the amount of that deduction.

(c) Where the amount allowed is allowed as deduction from the value of property liable to a debt or encumbrance created by the deceased, it shall not exceed the amount, if any, which would be allowed under section 44 if section 27 had not been enacted.

(d) In this rule, the expression "the annuity payments" means the payments specified in clause (a) of sub-rule (2) and the expression "the amount allowed" means the amount to be allowed as a deduction under this rule.

PART V—OBJECTS OF NATIONAL, SCIENTIFIC AND HISTORIC INTEREST OR OTHER DRAWINGS, PAINTINGS, ETC. RETAINED IN THE FAMILY

[Section 33(1) (i) and (j)]

11. Conditions for exemption.—(1) Objects of national, scientific or historic interest or other drawings, paintings, or things specified in clauses (i) and (j) of sub-section (1) of section 33 of the Act which are retained in the family of the deceased shall be exempt from the duty on an undertaking being given by such person as the Board may think appropriate in the circumstances of the case that, until the objects again pass on a death or are sold—

- (a) the objects will be kept permanently in India and will not leave it temporarily except for a purpose and a period approved by the Board; and
- (b) reasonable steps will be taken for the preservation of the objects,
- (c) reasonable facilities for examining the objects for the purpose of seeing the steps taken for their preservation, or for purposes of research or report will be allowed to officers of the National Museum, National Art Gallery, Department of Archaeology and the National Archives or to any person authorised by the Board so to examine them, and
- (d) the objects will be dealt with or disposed of in accordance with the directions of the Central Government.

(2) In the event of the sale of any objects to which this rule applies, duty shall, subject to as hereinafter provided, become payable on the proceeds of sale in respect of the last death on which the objects passed at the rate appropriate to the principal value of the estate passing on that death and the persons by whom or for whose benefits the objects, were sold shall be accountable for the duty and shall deliver an account for the purpose thereof within one month after the sale:

Provided that the duty shall not become payable as aforesaid if the sale is to Government or to any University or other public institution in India.

12. Exceptions to undertaking.—If on a claim for exemption under clause (i) and (j) of sub-section (1) of section 33 of the Act it is made to appear to the Board that any documents for which the exemption is claimed contain information which for personal or other reasons ought to be treated as confidential, the Board may exclude those documents either altogether or to such extent as it thinks fit from any undertaking under sub-rule (1) of rule 11 so far as the undertaking relates to the examination of the documents for purposes of research.

13. Effect of default in complying with the undertaking.—(1) Where any objects are exempted from duty in pursuance of an undertaking under sub-rule (1) of rule 11 and the Board is satisfied that at any time during the period for which the undertaking was given it has not been observed in a material respect, then duty shall become payable on the value at that time of those objects in respect of the death on which the exemption was given and at the rate appropriate to the principal value of the estate passing on that death upon which duty would have been payable if they had not been objects to which clauses (i) and (j) of sub-section (1) of section 33 apply; and any person who, if the objects were sold when the duty becomes payable, would be entitled to receive (whether for his own benefit or not) the proceeds of sale or any income arising therefrom shall be accountable for the duty.

(2) Where any objects are sold after they become liable to duty under sub-rule (1) in respect of any death, the proceeds of the sale shall not be liable to duty in respect of the same death under sub-rule (2) of rule 11.

PART VI—VALUATION AND INSPECTION OF PROPERTY

(Section 41)

14. Valuation.—(1) The Controller may accept the valuation, as shown in the account delivered by the accountable person or may, if he is not satisfied with the valuation shown therein, either himself place a valuation thereon on his own estimate or appoint a person to appraise such properties and to set the valuation thereon. The cost of any such professional assistance shall be defrayed by the Government.

(2) The price or value at which a testator may have given by his will to a particular person the option to acquire a property will not be considered as a test of its market value.

(3) When a property has actually been sold within a short time after the death of the deceased under open market conditions, the gross sum realised shall be taken as the principal value and no deduction shall be made for the expenses of the sale.

(4) If the property is part of an unadministered estate or a share of property subject to a trust already in operation which involves conversion or if the property consists of certified chattels of national, historic or scientific interest, a reasonable deduction for cost of sale may be allowed by the Controller in determining the value thereof.

(5) If the property consists of land containing minerals a separate value should be placed on the latter on the basis of a certificate by a qualified Mining Engineer.

(6) In the case of any agricultural land the principal value shall not ordinarily exceed twenty times of the annual value as assessed for the purpose of land revenue.

(7) In arriving at the market value of interests in expectancy, the following conditions shall be taken into account namely:—

(a) The age and state of health of the life tenant, the contingencies affecting the duration and extent of his interests and the possible cost of covering his interest by insurance.

(b) The duty and costs of realization and distribution payable when the interests fall into possession.

(c) The character of the assets, and the possibilities of their appreciation or depreciation in value.

(d) The rate of interest, and officially recognised tables of mortality.

(8) Value of the dutiable property abroad should be calculated at the rate of exchange on the date of death.

15. Inspection.—(1) The Controller may by written order signed by him authorise any person to enter upon or inspect any property for the purpose of the Act.

(2) The person or persons having the custody or possession of the property shall permit the person so authorised to enter upon and inspect it on any day excluding Sundays and holidays under the Negotiable Instruments Act, 1881, at any time between 6 A.M. and 6 P.M.

PART VII—ALLOWANCE FOR DUTY PAID IN A NON-RECIPROCATING COUNTRY

(Section 49)

16. Amount of allowance.—Where any property liable to duty in India under the Act has been subjected to estate duty in any other country with which no arrangement has been made for avoidance or relief of double taxation with respect to estate duty, the amount to be allowed by the Controller under section 49 of the Act as a deduction from the value of the property shall be—

(a) the full amount of duty paid in the other country if the law in the other country relating to the determination of the *situs* of the property concerned for the purpose of imposition of the duty is the same as in India.

(b) Such amount as the Board may direct, in other cases.

PART VIII—PAYMENT OF DUTY

(Section 51)

17. Calculation and adjustment of duty.—Duty shall, in the first instance, be calculated at the proper rate according to the principal value of the estate as set forth in the account delivered under section 53 or clause (a) of section 57 or prepared under sub-section (2) of section 61 of the Act but if, afterwards it is found that for any reason too little duty has been paid, the additional duty shall be payable and be treated as duty in arrear subject to the conditions specified in sub-section (2) of section 62 of the Act.

18. Method of payment.—(1) Payment of duty or deposits may be made—

- (a) by delivery of a cheque on a scheduled bank at the office of the Controller;
 - (b) by delivery of a bank draft issued by a scheduled bank at the office of the Controller;
 - (c) by depositing the amount of the duty to the credit of the Central Government at any Government treasury or sub-treasury, or at any branch of the Reserve Bank of India, or at any branch of the Imperial Bank of India or at any of its agencies conducting Government treasury business or at any other bank authorised by the Central Government in this behalf.
 - (d) where an amount is deposited under clause (c) above it shall be accompanied by the appropriate treasury challan, the receipted portion of which will be returned to the person making the payment.
- (2) The cheques and bank drafts shall be drawn in favour of the Reserve Bank of India and shall be crossed.
- (3) Where a cheque has been delivered to the Controller the duty shall not, notwithstanding any receipt given therefor, be deemed to have been paid until the amount for which the cheque is drawn has been collected.
- (4) Receipts for payment of duty shall be issued only by such persons as the Controller may authorise.

19. Payment on account or of deposit in respect of duty.—(1) A sum may be paid on account of duty in the manner provided in the preceding rule, the cheque or the bank draft being accompanied by a letter stating the name and date of death of the deceased person and if known, the official reference No. of his estate;

(2) Any person desirous of depositing money for the purpose of paying duty that may become payable on his death shall furnish to the Controller a statement of the net assets existing on the date of making the deposit and the principal value thereof, on the basis of which the amount of duty has been calculated.

PART IX—DELIVERY AND PREPARATION OF ACCOUNTS

(Sections 53, 57, 61 and 72)

20. Form of account.—(1) The account required to be delivered under sub-section (3) of Section 53 of the Act shall be in Form ED 1 appended to these rules, and the supplementary account mentioned in sub-section (4) of the said section shall be in the same form duly adapted to suit the requirements of the items included therein.

(2) The account to be annexed to the affidavit of valuation mentioned in clause (a) of section 57 of the Act shall also be in Form E.D. 1.

(3) The account mentioned in sub-section (2) of section 61 of the Act shall be in Form E.D. 1.

(4) All such accounts shall show the principal value of each item of property comprised in the estate, together with the basis of valuation. Such valuation may be ascertained by the accountable person either by estimating it himself or if ascertained with professional assistance, the certificate of the qualified valuer shall be appended.

(5) The Controller may at his discretion accept the Form of account substantially similar to the prescribed Form.

(6) Where a grant of representation is not required and an exemption from duty is claimed by reason of the smallness of the estate, the account may be delivered in Form E.D. 5.

21. Beneficiaries to account.—Where the property of the deceased liable to duty has been distributed, each of the persons to whom the property has been distributed shall furnish a full and complete account of all the property received by him from the deceased.

22. Copy of the will to accompany account.—The accountable person shall furnish with the original account to be delivered under sub-rule (1) or (2) of rule 20 a certified copy of the will, if any, of the deceased and of codicils thereto.

23. Account to be in duplicate.—An account required to be delivered under any of the foregoing rules shall be in duplicate.

24. Production of books of account and documents.—The accountable person shall produce or cause to be produced at the office of the Controller having jurisdiction over the estate of the deceased, any book of account or document which may by a notice in writing be required by the Controller in connection with an account delivered under the provisions of the Act or these rules or for the purposes of assessment of the duty.

25. (1) Account when deemed to be duly delivered.—An account shall be deemed to have been duly delivered to the Controller when—

(a) the prescribed Form signed by the accountable person and containing a full, true and complete statement of all matters and things required to be stated therein by the Act, these rules, the Controller and the form itself, and

(b) all documents and copies of which, by the Act, these rules, or the Controller are required to be furnished with the account,

have been received by the Controller or by an officer authorised by the Controller to receive them, and not otherwise.

(2) It shall be sufficient if the account required to be delivered in pursuance of the provisions of section 53 by a person accountable for duty or a copy of the affidavit with the account required to be delivered by an executor under section 57, is delivered by him to the Assistant Controller, the Deputy Controller or the Controller as the case may be, who has jurisdiction in respect of the estate concerned.

(3) A company or person under an obligation to give information to the Controller under sub-section (1) of section 18, or a company required to furnish particulars to the Controller under sub-section (1) of section 84 shall be deemed to have complied with the provisions of sub-section (1) of section 18 or of the said sub-section (1) of section 84, as the case may be, if the information or particulars are furnished to the Assistant Controller or Deputy Controller who is exercising the functions of the Income-tax Officer in the case of the company.

PART X—MISCELLANEOUS

Forms Generally

(Section 72)

26. Forms.—An application for a certificate under sub-section (5) of section 67 under sub-section (5) of section 67 of the Act shall be in Form E.D. 2.

(2) A certificate under section 60 of the Act shall be in Form E.D. 3.

(3) A certificate under sub-sections (1), (2) and (3) of section 67 and under sections 68 and 69 of the Act shall be in Form E.D. 4.

(4) A discharge certificate where no duty is payable shall be in Form E.D. 6.

Recovery of Duty

(Section 73)

27. Duty to be recovered under certificate.—(1) For the purpose of recovery of duty under section 73 of the Act, the Controller shall issue a certificate in writing to the effect that—

(a) the person named in the certificate is the executor or other person accountable or liable under the Act to pay the duty;

(b) the amount of duty stated in the certificate includes duty payable in respect of the property mentioned in the certificate;

(c) notice of the duty payable was duly served on the person named in the certificate;

(d) the sum named in the certificate was, at the date of the certificate, due to the Government of India in respect of duty.

(2) In this rule the expression "duty" includes any interest or penalty payable under the Act.

Particulars to be Furnished by a Company Regarding a Deceased Member

(Section 84)

28. Particulars to be furnished by a foreign company.—For the purposes of section 84 of the Act, a company to which that section applies shall furnish to the Controller a statement showing the following particulars:—

- (1) Name of the deceased member.
- (2) Last known address.
- (3) Date of death.
- (4) Date of lodgment or notification of probate or letters of administration or of notice of death.
- (5) Description of the shares and/or stocks held in the company by the member at the time of his death.
- (6) No. of such shares and/or stocks with distinctive No.(s) of stock or share certificates.
- (7) Nominal value of the shares and stocks.
- (8) Market value per share or stock at date of death.
- (9) Basis of valuation.
- (10) Total value of holding.
- (11) Names and addresses of trustees, administrators or any other legal representatives.

29. Particulars to be furnished by an Indian company.—Where a company formed and registered under the Indian Companies Act, 1913 (VII of 1913) has come to know through any of its principal officers, of the death of any of its members, it shall within one month of the receipt of such knowledge, furnish the following particulars to the Assistant Controller or the Deputy Controller, who is exercising the functions of the Income-tax Officer in the case of the company:—

A. Where any transfer of a part or whole of the stocks and shares standing in the name of the deceased has been registered by the company because it was satisfied that the transferee had acquired such shares for valuable consideration:—

- (i) name and address of the deceased member in whose name the shares stood;
- (ii) name and address of the transferee;
- (iii) description of the shares transferred (with distinctive numbers);
- (iv) nominal value of the shares transferred;
- (v) amount of consideration paid by the transferee;
- (vi) name and address of the transferor to whom or of the broker through whom, the consideration was paid;
- (vii) description of any other shares still standing in the name of the deceased on the date of furnishing the particulars.

B. Where no transfer of any shares standing in the name of the deceased has been registered on the date of furnishing the particulars:—

- (i) name and address of the deceased member;
- (ii) description (with distinctive numbers) of stocks and shares standing in the name of the deceased;
- (iii) nominal value of the stocks and shares held;
- (iv) estimated market value thereof on the date of the death of the deceased;
- (v) name and address of the trustee, administrator or other legal representative of the deceased;
- (vi) whether any application has been received from any person for the transfer of such shares;
- (vii) if so, name and address of the person who has applied for transfer.

FORMS

ED-1

ESTATE DUTY

(See rule 20)

GOVERNMENT OF INDIA

In the Office of the Controller of Estate Duty, Range/Circle.....

NOTE.—Form IE issued herewith contains the notes to which reference is made in this Form by numbers or letters enclosed in brackets.

In the estate of deceased.

I/we (1)..... make oath/affirm and declare as follows:—

1. I am/we are the person/persons liable under the Estate Duty Act, 1953, to deliver an account of the estate of the above-mentioned deceased and to pay the duty thereon under the said Act.

2. That the deceased died on the day of 19 at and was aged years. He/She was at the time of death domiciled in (2).....

3. The First Part of the Account No. 1, hereto annexed, is a true account of the particulars and value, as at the date of the deceased's death, so far as I/we have been able to ascertain the same, of all the movable property of the deceased, whether in possession or reversion, within the States of India, exclusive of what the deceased may have been possessed of or entitled to as a trustee and not beneficially, but including any such movable property over which the deceased had and exercised by will a general power of appointment.

The gross value thereof, as at the date of the deceased's death, was Rs..... as per Account No. 1 (First Part).

4. The Second Part of the Account No. 1, hereto annexed, is a true account of the particulars and value, as at the date of the deceased's death, so far as I/we have been able to ascertain the same, of all the immovable property except agricultural land, situate in the States of India, to which the deceased was entitled for an interest not ceasing on his/her death, including any immovable property except agricultural land over which the deceased exercised by will a general power of appointment, but exclusive of property which the deceased may have been possessed of or entitled to as a trustee and not beneficially.

The gross value thereof, as at the date of the deceased's death, was Rs..... as per Account No. 1 (Second Part).

5. The Third Part of the Account No. 1 hereto annexed, is a true account of the particulars and value as at the date of the deceased's death, so far as I/we have been able to ascertain the same, of all agricultural land situate in the States of India, to which the deceased was entitled for an interest not ceasing on his/her death including any agricultural land over which the deceased exercised by will a general power of appointment but exclusive of agricultural land which the deceased may have been possessed of or entitled to as a trustee and not beneficially.

6. The Fourth Part of the Account No. 1 hereto annexed is a true account of the particulars and value as at the date of the deceased's death, so far as I/we have been able to ascertain the same, of cesser of interest in joint property of a Hindu family governed by the Mitakshara, Marumakkattayam or Aliyasan-tana Law situate in the States of India.

7. The Account No. 2(2) hereto annexed, is a true account of the particulars and gross value, as at the date of the deceased's death, so far as I/we have been able to ascertain the same, of all the movable property of the deceased, whether in possession or reversion, situate out of the States of India, exclusive of what the deceased may have been possessed of or entitled to as a trustee and not beneficially, but including any such movable property over which the deceased had and exercised by will a general power of appointment.

8. There was (4) other movable property of which the deceased was at the time of his/her death competent to dispose within the meaning of sub-section (1) of section 3 of the Act. The particulars and value thereof, as at the date of the deceased's death, so far as I/we have been able to ascertain the same, are truly set forth in the Account No. 3(a) hereto annexed.

9. The deceased had (5) general power to charge money on immovable property. The particulars of such power are set forth in the Account No. 3(b) hereto annexed.

10. (6)^y I/We have not been able to ascertain the precise amount or value of the movable property referred to in Exhibit. annexed to Account Nos. 1, 2, 3(a) and 3(b), although I/we have made the fullest possible enquires, but so far as the amount and value can now be estimated, they are stated in Account No. (s) by reference to the said Exhibit, which contains all the particulars of such property known to me/us. I/we undertake, as soon as the amount and value are fully ascertained, to bring in a full account thereof and to pay both the additional duty (if any) payable thereon for which I/we am/are or may be liable, and any further duty, payable by reason thereof, for which I/we am/are or may be liable on the other property mentioned in this declaration.

11. The First Part of the Schedule No. 1, hereto annexed, contains a true and particular list of the debts due and owing from the deceased at the time of his/her death to persons resident within the States of India, or due to persons resident out of the said States, but contracted to be paid in any such State or charged on property situate within any such State with the names and addresses of the several persons to whom the same are respectively due, and the descriptions and amounts of such debts

The Second Part of the said Schedule contains a true and particular statement of the allowances under section 44, on account of debts by way of dower, payable out of the estate of the deceased

The Third Part of the same Schedule contains a true account of the funeral expenses of the deceased,

12. Schedule No. 2(3) hereto annexed contained a true and particular list of the debts due and owing from the deceased at the time of his/her death to persons resident out of the State of India (other than debts contracted to be paid in any such States, or charged on property situate within any such States, which have been entered in the Schedule No. 1) with the names and addresses of the several persons to whom the same are respectively due, and the descriptions and the amount of such debts. The Schedule No. 2 contains also a true statement of the amount of any duty payable in any foreign country by reason of the deceased's death in respect of property situate in that foreign country, and included in the Account No. 2.

13. The said debts in the said Schedules Nos. 1 and 2 are payable by law out of property comprised in the said Accounts Nos. 1 and 2 respectively. They were incurred by the deceased *bona fide* for full consideration (7) in money or money's worth wholly for the deceased's own use and benefit. They are not, nor are any of them, debts which are primarily payable out of any immovable property (8) or debts in respect whereof there is a right to reimbursement from any other property or person (9).

14. The Schedule No. 3 hereto annexed, contains a true and particular list of the debts and encumbrances which were subsisting charges at the deceased's death on the immovable property except agricultural land comprised in the said Account No. 1 or on some part or parts thereof, with the particulars of the instruments by which the debts and encumbrances were secured or created, and the names and addresses of the several persons to or in whom the said debts and encumbrances are now due or vested.

The said debts and encumbrances were incurred or created by the deceased, or by some one or more of his/her predecessors in title. In so far as they were incurred by the deceased, or were created by a disposition made by him/her, they were incurred or created *bona fide* for full consideration in money or money's worth, wholly for the deceased's own use and benefit, and they take effect out of his/her interest. The said debts and encumbrances are not, nor are any of them, primarily chargeable upon any other property, and they are not debts or encumbrances in respect whereof there is a right to reimbursement from any other property or person (9).

15. Schedule No. 4 hereto annexed contains a true and particular list of the debts and encumbrances which were subsisting charges at the deceased's death on the agricultural land comprised in the said Account No. 1 or on some part or parts thereof, with the particulars of the instruments by which debts and encumbrances were secured or created and the names and addresses of the several persons to or in whom the said debts and encumbrances are now due or vested.

The said debts and encumbrances were incurred or created by the deceased, or by some one or more of his/her predecessor in title. In so far as they were incurred by the deceased or were created by a disposition made by him/her they

were incurred or created *bona fide* for full consideration in money or money's worth, wholly for the deceased's own use and benefit, and they take effect out of his/her interest. The said debts and encumbrances are not, nor are any of them, primarily chargeable upon any other property and they are not debts or encumbrances in respect whereof there is a right to re-inbursement from any other property or person.

16. That the deceased made no gifts in contemplation of death, (10) save those described and valued in Exhibit..... which have been entered in Account No.....

17. That the deceased made no disposition of property within two years of his/her death purporting to operate as an immediate gift *inter vivos* whether by way of transfer, delivery, declaration of trust, settlement upon persons in succession, or otherwise, save (10) those described and valued in Exhibit..... which have been entered in Account(s) No.(s).....

18. That the deceased made no disposition of property at any time in respect of which the donee did not assume *bona fide* possession to the immediate and entire exclusion of the donor, or where a benefit was reserved or secured to the deceased by contract or otherwise save those described and valued in Exhibit.... which have been entered in Account(s) No.(s).....

19. That there is no other property falling under the following descriptions (10) save those described and valued in Exhibit..... which have been entered in the appropriate accounts as indicated in Exhibit.....

(a) Property in which the deceased or some other person had an interest which ceased on the death of the deceased.

(b) Property which the deceased had enjoyment of or interest in for life, or for some, period determinable by reference to his/her death, under an expressed or implied trust in a settlement made by himself/herself.

(c) Property which the deceased caused to be vested in himself/herself and some other person jointly either by disposition, or purchase, so that the other person takes by survivorship.

(d) The deceased's severable share of property of which he/she was a joint tenant or joint owner with another or others.

(e) Policies which the deceased affected on his/her life, and kept up wholly or partly for the benefit of a donee, whether nominee or assignee.

(f) Annuities or other interests which the deceased either alone or by arrangement with any person purchased or provided, including annuities purchased or provided wholly or partially by some person who was at any time entitled to any property derived from the deceased.

(g) Gifts by way of creation of a burden or release of a right.

20. That to the best of my/our knowledge and belief there is no other property under any title whatsoever in respect of which duty is chargeable on the death of the deceased.

I/We(11) swear/affirm that the statements in paragraphs..... are true, and that the statements in paragraphs..... are made upon information received by me/us and solemnly and sincerely believed to be true.

Signed.....

Signed.....

Declared on oath on affirmation

before me this day of 19....

at (place) by the above named

who is/are personally known to me.

identified by

*Signed.....

Designation.....

*This may be sworn or affirmed before any Magistrate, or other Court, or before a person having by law authority to receive evidence. The designation of the Magistrate, Court or person should be added below the signature.

Movable Property situate in the States of India

	Nominal value of Securities	Market price of Securities at the date of death	Gross principal value at the date of death
	Rs.	Rs.	Rs.
Stocks, Bonds or Funds (including Treasury Bills) of the Central Government or State Governments, as per Form I—A annexed.			
Stocks, or other Securities of local authorities in India, as per Form I—A annexed.			
Stocks, Bonds, Funds, etc., of other Governments or Foreign countries, and Stocks, Debentures, or Bonds of Municipal or other Corporations, or Public Authorities, etc., in Foreign countries, as per Form I—A.			
Stocks, Shares, Bonds, or Debentures, of Companies, as per Form I—A annexed (A). (The denomination of each share or stock unit should be stated.)			
<hr/>			
Uncashed dividends and interest, dividends declared, and interest accrued due, in respect of the above investments, to date of death, as per statement annexed (B).			
<hr/>			
			Gross principal value at the date of death..
			Rs.
Money in hand or house			
Money in Bank (C) { (1) On current account, including accrued interest. { (2) On deposit, including accrued interest }			as per statement annexed.
Money at the Post Office or other Savings Bank ; Building of Co-operative Society, etc., as per statement annexed.			
Money out on mortgage, and interest thereon to date of death, as per statement annexed.			
Money out on bonds, bills, promissory notes and other securities, and interest thereon to date of death, as per statement annexed.			
Book debts, as per statement annexed.			
Other debts, as per statement annexed.			
Unpaid purchase money of movable and lease hold property contracted in life-time of the deceased to be sold, as per statement annexed.			
Deceased's interests in proceeds of sale of immovable property subject to a trust for sale, whether actually sold or not, as per statement annexed (D).			
Property over which the deceased had and exercised by will a general power of appointment as per statement annexed (D).			
Property over which the deceased had, but did not exercise, a general power of appointment, and which, by default of exercise of the power of appointment, belonged to the deceased absolutely, as per statement annexed (D).			
Policies of insurance and bonuses (if any) thereon, on the life of the deceased, as per statement annexed.			

Household goods, furniture, books, plate, any wearing apparels including any precious or semi-precious stones or ornaments sewn into the wearing apparel, etc. (E)	{ If sold realised gross Rs If unsold, estimated at Rs
Jewellery, watches, trinkets, etc (F)	{ If sold realised gross Rs. If unsold, estimated at Rs
Motor cars, carriages horses, harness, saddle, etc (E)	{ If sold, realised gross Rs If unsold, estimated at Rs
Stock in trade, live and dead farming stock implements for agricultural purposes, etc	{ If sold, realised gross Rs If unsold, estimated at Rs
Goodwill of business	{ If taken over at a price Rs If valued according to custom of trade Rs If neither, estimated at Rs
Profits of business from 19 to date of death	
Ships and shares of ships registered at ports in India, as per statement annexed (F)	
Profits of same to date of death, (G) estimated at	
The deceased's share in movable and immovable property as a partner in the firm of	
as per balance sheet annexed, signed by the surviving partners	
If a balance sheet is not available, estimated at	
Leasehold property for years, as per form IB	{ If sold, realised gross Rs If unsold, estimated at Rs
Mortgages on the leasehold property should be deducted by inclusion in Schedule No I)	
Rents of the deceased's own immovable and leasehold property due prior to the death, but not received by the deceased, (G) estimated at	
Apportionment of the rents of the deceased's immovable and leasehold property to date of death, (G) estimated at	
Income accrued due, but not received prior to the death arising from immovable and movable property in which the deceased had a life or other limited interest, viz (D)	
Apportionment of income from such source to date of death	
Any other income apportioned where necessary, to which the deceased was entitled at his/the death (e.g., pensions, annuities, director's fees, etc.) as per statement annexed,	
Any interests in expectancy, as per statement annexed (J)	
Other movable property not comprised under the foregoing heads, viz	
Gross Movable Property carried to item I of the Summary	

ACCOUNT No I (SECOND PART)

Immovable Property except agricultural land situate in the States of India

Each item of property should be listed and particulars should be given in Form IB in respect of land and any interest in expectancy in immovable property should also be stated (K)	Gross annual value at the date of death.	Gross principal value at the date of death.
I	2	3
	Rs.	Rs.
Gross value carried to item XI of the Summary		

To be signed by the person(s) making oath or affirmation.

ACCOUNT No I (THIRD PART) ¹

Agricultural land situate in the States of India

Each item of agricultural land should be listed and particulars should be given in Form IC in respect of agricultural land and any interest in expectancy in agricultural land should also be stated

Gross annual value at the date of death

Gross principal value at the date of death

1

2

3

Rs

Rs.

Gross value carried to item XIV of the Summary.

To be signed by the person(s) making oath or affirmation.

ACCOUNT No I (FOURTH PART)

Cessor of interest in joint family property of a Hindu family governed by Mitakshara/Marumakkattayam/or Aliyasantana law

Principal value of the family property
(Each item of property should be listed and particulars should be given in Form ID in respect of all properties belonging to the joint family with details of any gifts, transfers, settlements or trusts, etc., made by the family within 2 years of the death of the deceased)

Deceased's interest therein

Principal value of deceased's interest ceasing.
(Carried to item No. IX of the Summary)

1

2

3

Name of the karta of the family

Names of the members of the family who would be entitled to a share if partition took place immediately before death of the deceased and their share

Age of the deceased

If the deceased was below 18 years of age, whether a lineal male ascendant of the deceased was a coparcener in the family

4

5

6

7

To be signed by the person(s) making oath or affirmation.

ACCOUNT No. 2

Movable Property situate outside the States of India, which is not saleable or transferable in any such States.

NOTE.—Property saleable or transferable in such States should be included in Account No. 1. (First part).

Particulars of Property 1	Local situation 2	Principal value at the date of death 3
	Rs.	
	Gross value	
	less Cost of administration or realisation (not exceeding 5 per cent.)	
	Net value carried to item VI of the Summary.	

To be signed by the person(s) making oath or affirmation.

ACCOUNTS Nos. 3(a) AND 3(b)

- 3 (a).—An account of movable property other than those in Accounts Nos. 1 and 2, of which the deceased at the time of death was competent to dispose within the meaning of section 3(1).
- 3 (b).—An account of money which the deceased had, at the time of death, a general power to charge on immovable property whether the power was exercised by will or not.

Short material particulars of disposition conferring the power 1	Particulars of Property. (Full particulars of any leaseholds for years should be separately stated) 2	Principal value at date of death 3
		Rs.
3(a).	Gross Value	
Deduct—Debts and encumbrances upon leaseholds, as per statement annexed.		
	Net Value	
3(b).—(i) Where the power was exercised (as per statement annexed)	Rs.	
(ii) Where the power was not exercised (as per statement annexed)	Rs.	

TOTAL of 3 (a) and 3 (b) carried to item VIII of the Summary.

To be signed by the person(s) making oath or affirmation.

SCHEDULE No. 1 (FIRST PART)

An account of the debts (including mortgage debts secured on leasehold property) due and owing from the deceased to persons resident within the States of India or due to persons resident out of the said States but contracted to be paid in any such State, or charged on property situate within any such State.

(Where the debts on the deceased's movable property exceed the value thereof, and the deficiency is a proper deduction for Estate Duty purposes against the deceased's immovable property, deduction of such deficiency may be taken in Schedule No. 3.)

Name and address of creditor	Description of debt (including date and short particulars of any security for the debt).	Amount
(1)	(2)	(3)
Read Notes (H) and (L)		Rs.

Total of First Part

SCHEDULE No. 1 (SECOND PART)

A statement of the allowances claimed under clause (d) of section 44 on account of debt by way of dower.

Amount.
Rs.

Total of Second Part

SCHEDULE No. 1 (THIRD PART)

An account of the funeral expenses of the deceased.

Amount
(actual or Rs.1000
whichever is less.)

Rs.

Total of Third Part

Total of First, Second and
Third Parts.

To be signed by the person(s) making oath or affirmation.

SCHEDULE No. 2

An account of the debts due and owing from the deceased to persons resident out of the States of India, other than debts contracted to be paid in any such State, or charged on property situate within any such State, which have been entered in the schedule No. 1.

Name and address of creditor (1)	Description of debt (including date and short particulars of any security for the debt) (2)	Amount (3)
Read Note (M)		Rs.
	TOTAL	

To be signed by the person(s) making oath or affirmation.

SCHEDULE No. 3

*An account of the debts and encumbrances upon the immovable property in Account No. 1 (Second Part.)

(Where the debts on the deceased's immovable property exceed the value thereof, and the deficiency is a proper deduction for Estate Duty purposes against the deceased's movable property, deduction of such deficiency may be taken in Schedule No. 1.)

Nature of debt or encumbrances and by whom created (1)	Short material particulars of security with date and names of parties to, any deed (2)	Short particulars of property charged, to identify it in above account (3)	Names and addresses of persons to or in whom the debt or encumbrances are now due or vested (4)	Amount of debt or encumbrances (5)
				Rs.

*Read Notes (H) and (L.)

To be signed by the person(s) making oath or affirmation.

SCHEDULE No. 4

An account of the debts and encumbrances upon agricultural land in Account No. 1 (Third Part)

(Where the debts on the deceased's agricultural lands exceed the value thereof and the deficiency is a proper deduction for Estate Duty purposes against the deceased's other immovable or movable properties, deduction of such deficiency may be taken in appropriate Schedule.)

Nature of debts or encumbrances and by whom created (1)	Short material particulars of security with date and names of the parties to, any deed (2)	Short particulars of the agricultural land charged, to identify it in the above account (3)	Names and addresses of persons to or in whom the debts or encumbrances are now due or vested (4)	Amount of debts or encumbrances (5)
			TOTAL	Rs.

To be signed by the person(s) making oath or affirmation.

SUMMARY

	Rs.	Rs.	Rs.
I. Gross movable property in Account No. 1 (First Part).	_____		
II. <i>Deduct</i> —Total of Schedule I	_____		
III. Net movable property in Account No. 1	_____		
IV. Gross movable property in Account No. 2	_____		
V. <i>Deduct</i> —Total of Schedule No. 2	_____		
VI. Net movable property in Account No. 2	_____	_____	
VII. Net movable property in Account Nos. 1 and 2 (Total of III and VI)		_____	
VIII. Net movable property in Account Nos. 3 (a) and 3 (b)			
IX. Coparcenary interest in HUF ceasing in Account No. 1 (Fourth Part)		_____	
X. Net movable property in Account Nos. 1, 2, 3 (a) and 3 (b) (Total of VII, VIII and IX)		_____	
XI. Gross immovable property except agricultural land in Account No. 1 (Second Part)			
XII. <i>Deduct</i> —Total of Schedule No. 3	_____		
XIII. Net immovable property in Account No. 1	_____	_____	
XIV. Gross agricultural land in Account No. 1 (Third Part)			
XV. <i>Deduct</i> —Total of Schedule No. 4	_____		
XVI. Net agricultural land in Account No. 1	_____	_____	_____
XVII. Net movable and immovable property (Total of X, XIII and XVI)			_____

Exemptions claimed (N).

ESTATE DUTY

Statement of Stocks and Shares to accompany the Estate Duty Account

Amount of stock or No. of shares	Name of company, followed by full description of holding	Nominal value of holding	Market price at date of death	Principal value at date of death
		Rs.	Rs.	Rs.
1	2	3	4	5

To be signed by the person(s) making oath or affirmation.

ESTATE DUTY

Statement of immovable and/or Leasehold Property excluding agricultural lands

Identification No.	Description of property including situation (If the property is leasehold for years, the unexpired term, as at the date of death of the deceased, should be stated).	Rental, if let	If unlet, the gross annual value
--------------------	--	----------------	----------------------------------

NOTE.—The description and situation of the property should be such as to enable it and its boundaries to be clearly identified.

I	2	3	4
		Rs.	Rs.

Nature of deductions from gross annual value	Amount of annual deductions	Net annual value	Estimated principal value as at date of death, and, if since sold, gross amount realised and date of completion of sale.
5	6	7	8
	Rs.	Rs.	Rs.

To be signed by the person(s) making oath or affirmation.

FORM I-C

ESTATE DUTY

E.D.I.

Statement of Agricultural land in the States of India.

NOTE.—(1) Several allotments of land forming one property or managed as one estate should be entered as one item.

(2) If land is distributed over different States, the aggregate of such land in each State should be shown separately.

Description and situation					Deceased's share	Nature of the crop (paddy, jute etc.)	Total acreage
Name of the State	Name of the District	Name of the Police station	Touzi No. or name of Pargana	Identification No. or number of plots under settlements records			
1	2	3	4	5	6	7	8

Crop for one year to date of death	Rental, if let	If unlet, the gross annual value	Annual deduction, if any	Net annual value	Land revenue payable	Estimated principal value as at date of death and if since sold, gross amount realised and date of sale.	Basis of valuation
9	10	11	12	13	14	15	16

To be signed by the person(s) making oath or affirmation.

FORM 1-D

E.D.-I

ESTATE DUTY

Statement of property of the Hindu undivided family governed by Mitakshara, Marumakkattayam or Aliyasantana laws of which the deceased was a co-parcener, as at the date of death.

Details of				Gross value of the estate
Movable property		Immovable property situated in India		
Situated in India	Situated outside India	Agricultural land (Details as in form 1 C.)	Others	
1	2	3	4	
				Rs.

Gifts or dispositions <i>bona fide</i> made by the Family within 2 years of the death of the deceased purporting to operate as an immediate gift <i>inter vivos</i> whether by way of transfer delivery, declaration of trust, settlement upon persons in succession, or otherwise.	Details of debts and encumbrances	Net value
6	7	8
		Rs.

To be signed by the person(s) making oath or affirmation.

E.D.-1

FORM 1-E

Notes to which reference is made in Form E.D.-1 by numbers or letters enclosed in brackets.

(1) Insert the name, full address and description of each person who joins in the declaration.

(2) Where it is claimed that the deceased was domiciled outside the States of India at the time of his/her death, insert the name of the country or the State in which he/she is considered to have been domiciled. The circumstances relied upon to establish such domicile should be set out in a statement attached to the declaration. The domicile of origin should always be given.

(3) Where the deceased died domiciled out of India, the Account No. 2 and Schedule No. 2 should not be filled in.

(4) Insert "no" if the fact is so, and strike out all words after "section 3".

(5) Insert "a" or "no" or add "s" to "power", as the fact may require, and if "no", strike out all remainder of paragraph after "property". The paragraph does not refer to the deceased's power in right of ownership to charge money on his/her own immovable property.

(6) Strike out paragraph if inappropriate.

(7) Where the consideration for the debt, either consisted of property derived from the deceased, or was given by any person who was at any time entitled to or amongst whose resources there was at any time included any property derived from the deceased, particulars should be furnished.

(8) A mortgage debt not created by the deceased himself but charged on immovable property which was acquired by the deceased subject to the mortgage is primarily payable out of such immovable property.

(9) If there is a right to reimbursement but it cannot be obtained, adapt the paragraph. A debt for payment of which the deceased was surety only must not be deducted, unless the amount guaranteed has ripened from a mere liability into a debt and is actually recoverable from his estate.

(10) Adapt as the circumstances require.

(11) Insert the name of each deponent.

(A) Where securities have been valued according to the official list of a recognized stock exchange, a copy of that list should be attached, but where there is no official market quotation the estimate of principal value should be supported by other published quotations or broker's certificates, or letters from the secretaries of the companies.

Any such certificate or letter should show either the date, price and amount of recent sales in the open market, or particulars of the last three years dividends. No apportionment of the dividends is necessary, where they are "ex-dividend", the valuation.

If there have been no such recent sales, the date, price and amount of the last sale in the open market should be given.

If any bonus has been distributed, the fact should also be stated.

(B) Where the securities are "cum dividend" on the day of the deceased's death, no apportionment of the dividend is necessary; where they are "ex-dividend", the whole of the dividend valued as on that day should be included.

(C) The name or names of the banks should be stated.

(D) If the interest or power was derived under a will or intestacy, state name and date of death of the testator or intestate, but, if under a deed, state the date, together with names and addresses of the trustees and if the deed has been already produced give the official reference appearing upon it.

(E) A valuation should normally be annexed: details and individual values of items valued at Rs. 500 and upwards should be given.

(F) A valuation must be annexed.

(G) These words to be struck out where the amount is actually ascertained.

(H) No mortgage debt created by the deceased himself is to be deducted unless such debt was created *bona fide* for full consideration in money or money's worth wholly for the deceased's own use and benefit.

(J) Particulars should be stated of all interests in expectancy and movable property whether vested or contingent.

(K) Particulars should be stated of all interests in expectancy in immovable property.

(L) A statement of any debts payable by law out of the property in Account No. 1, but which cannot be deducted for the purpose of duty, should be annexed to the Schedule, for information.

Where a debt is claimed to be due to the husband or wife, or any other member of the deceased's family a full explanation should be given and evidence of the debt should be annexed.

A mortgage debt not created by the deceased himself but charged on immovable property which was acquired by the deceased subject to the mortgage is primarily payable out of such immovable property and must not be deducted against the movable property.

Where the debt is for "money lent" or "over draft" to a bank the date of the loan and particulars of the security if any, given or if none, the facts relied on as showing that the debt is legally recoverable should be stated.

(M) Deduction may be here claimed (a) of any duty payable in any foreign country by reason of the deceased's death in respect of property situate in that foreign country and included in the Account No. 2, and (b) of an amount not exceeding 5 per cent. of the value of any property in the Account No. 2 representing additional expense incurred in administering or realising such property by reason of its being situate out of the States of India; see also note (L) above.

(N) Under section 34 of the Act the following properties are not to be included in the principal value of the estate:

- (1) Property in which the deceased had never any interest. (For this item separate account in form ED1 is to be filed).
- (2) Household goods, including tools of artisans, agricultural implements or any other tools or implements as were necessary to the deceased to enable him to earn his livelihood, to the extent of rupees two thousand and five hundred in value.
- (3) Books not intended for sale.
- (4) Wearing apparel, but not including any precious or semi-precious stones or ornaments worked or sewn into the wearing apparel.
- (5) Drawings, paintings, prints, manuscripts, works of art or archaeological or scientific collections which are of national, scientific or historical interest and which are retained in the family of the deceased and dealt with or disposed of in accordance with such conditions as the Board may prescribe, or which are given absolutely or bequeathed to Government or to any University or other public institution.
- (6) Drawings, paintings, photographs, prints, manuscripts and any other heir-loom, not falling within item (5) above, which are retained in the family of the deceased and are dealt with or disposed of in accordance with such conditions as the Board may prescribe and are not intended for sale.

The following kinds of property are to be included in the principal value of the estate for the purpose of rate; but no duty shall be payable in respect of such properties to the extent specified against each of them:—

- (a) Gifts for public charitable purpose made within six months of death to the extent of Rs. 2,500.
- (b) Gift for any other purpose within 2 years of death, to the extent of Rs. 1,500.
- (c) Proceeds of insurance policy for the purpose of paying estate duty and assigned to the Government to the extent of duty payable but not exceeding Rs. 50,000.
- (d) Moneys deposited with the Government for the purpose of paying duty to the extent of duty payable but not exceeding Rs. 50,000.
- (e) Insurance proceeds on the life of the deceased to the extent of Rs. 5,000.

(f) Moneys earmarked under a policy of insurance or under a declaration of trusts or settlement for the marriage of any of the female relative dependent on the deceased for necessities of life to the extent of Rs. 5,000 for each of such relatives.

(g) Agricultural land in any State in India not specified in the First Schedule to the Act.

If exemption is claimed on any of these items a separate list of such items with full details should be attached.

E.D.-2.

GOVERNMENT OF INDIA

ESTATE DUTY

In the Office of the Controller of Estate Duty

Circle, the 19 .

APPLICATION UNDER THE PROVISIONS OF SUB-SECTION (5) OF SECTION 67

(See rule 26)

In the ESTATE of Official Reference No. E.D./File
19 .

Application is hereby made to the Controller of Estate Duty to determine the estate duty payable in respect of the property described hereinafter for which I am (we are) accountable as passing on the death of late of who died on the day of
19 .

The Property hereinbefore referred to—

2. I (We) hereby attach and deliver in Form E.D.-1 a full statement to the best of my (our) knowledge and belief of all property passing on the death of the aforesaid

3. The persons entitled on the death of the deceased to the property described in paragraph 1 of this application are as follows:—

1.

2.

4. The persons entitled on the death of the deceased to the other property specified and described in the statement attached are as follows:—

5. I (We) confirm all the particulars which have already been stated by me (us) or on my (our) behalf, and declare that to the best of my (our) knowledge and belief there are no further particulars, which ought to be disclosed.

Signature of applicant(s) Date 19 .

E.D.-3

GOVERNMENT OF INDIA

ESTATE DUTY

Controller of Estate Duty, Circle No.

The 19

CERTIFICATE UNDER SECTION 60

(See rule 26)

In the ESTATE of Official Reference No. E.D./File
..... 19 .

It is hereby certified that the full estate duty has been paid or will be paid or that none is due in respect of the property hereinafter described as passing on the death of late of who died on the day of 19 .

The property was accounted for in the Account(s) No.(s) annexed to the Estate Duty Account, dated 19 , which was delivered with reference to the death of the deceased.

The property hereinbefore referred to.

Controller of Estate Duty.

Seal of Controller of Estate Duty.

E.D.-4

GOVERNMENT OF INDIA

ESTATE DUTY

Controller of Estate Duty, Circle No.

The.....19

CERTIFICATE UNDER SECTION 67, 68 OR 69

(See rule 26)

In the ESTATE of Official Reference No. E.D./File
.....19

It is hereby certified that the full estate duty has been paid in respect of the property hereinafter described as passing on the death of
late of who died on the day of19

The property hereinbefore referred to.

Seal of Office.

*Controller of Estate Duty.**Secretary, Central Board of Revenue.*

E.D.-5

GOVERNMENT OF INDIA

ESTATE DUTY

FORM OF RETURN FOR SMALL ESTATES WHERE A GRANT OF REPRESENTATION IS NOT REQUIRED AND EXEMPTION FROM ESTATE DUTY IS CLAIMED BY REASON OF THE SMALLNESS OF THE ESTATE

This form should be transmitted to the Assistant Controller of Estate Duty having jurisdiction over the deceased's estate.

An Account* of the Estate of of
who died on the day of19, delivered
by.....

Description of property

Value as at the
date of death

Rs.

1. *Immovable Property*(i) *Agricultural land*

(Give area, locality and land revenue paid if necessary in a separate statement).

(ii) *Non-agricultural property*

(Give description, locality, rent receivable, etc. if necessary in a separate statement).

2. *Movable Property*

(i) Cash in the House and/or lockers, etc.

(ii) Jewellery in the House and/or lockers

(iii) Furniture, wearing apparel, etc.

Description of property	Value as at the date of death
<p>(iv) Deposits with Post Office, Banks, Co-operative Societies and other debts due to the deceased. (Give details separately, if necessary)</p> <p>(v) Govt. securities, National Savings Certificates (Give details separately, if necessary).</p> <p>(vi) Life Assurance policies</p> <p>(vii) Stocks, shares and debentures (Give details)</p>	Rs.
3. Cessor of interest	
<p>(i) In joint family property of a Hindu family governed by Mitakshara, Marummakkattayam or Aliya-santana law.</p> <p>(ii) In any settled property, annuity, etc. in which the deceased had life-interest.</p>	
See observation No. 1 below as to assets (if any) nominated by the deceased in favour of any person.	
4. Any other property or money not included in the above (Give details.)	

Deductions

Actual funeral expenses

(deduction will be allowed of actual expenses or one thousand rupees whichever is the less).

Debts due by the deceased including any mortgage debt, dower debt etc.

(Give details separately as to when the debt was incurred and for what purpose).

NOTES.—*The Account should show the position as at the date of death of the deceased.

† State the name, last address and occupation of the deceased and if a female whether married, single or a widow.

‡ State the name and address of the person by whom this account is delivered and how related to or connected with the deceased.

Observations	Answers
(1) Nominations	
Did the deceased during his lifetime nominate any moneys or assets of any description in favour of any person?	
If so please furnish particulars.	
(2) Money and Other Property held jointly	
Was the deceased joint owner of any money, Post Office Savings Bank or other bank accounts, Stocks and Bonds, Savings Certificates, money invested in other Government securities or other stocks and shares, or any other property?	
If so, please give particulars and state:—	
(a) The date of purchase, investment or deposit.	
(b) Why the property was placed in the joint names? Was it the intention that the survivor should take the whole?	
(c) The names and relationship of the joint holders.	
(d) By whom the money was provided and how much by each?	

Observations	Answers
(e) In the case of husband and wife, if the wife provided any of the money, how she acquired the means to do so.	
(All the above questions should be answered where there is joint property of any kind.)	
(3) <i>Gifts—Inter Vivos</i>	
(a) Did the deceased make any gift or gifts of money or other property within two years of his death? If so give details:	
(b) Did the deceased, at any time, make any gifts:—	
(i) reserving to himself a life or other interest therein? or	
(ii) providing for himself any benefit by contract or otherwise: or	
(iii) not to his entire exclusion:	
If so, please furnish full particulars of all such gifts.	
(4) <i>Life Interests.</i>	
Was the deceased in receipt of any annuity, or interest for life in any property other than the property shown in the account of the estate overleaf?	
If so, please give particulars.	
If the deceased was entitled to the annuity or life interest under a will, the full name and date of death of the testator should be stated; if under a deed, the original or full copy should be sent for perusal.	
(5) <i>Policies of Insurance</i>	
Has any money (other than the money shown in the account of the estate overleaf) become payable on the death under any policy of insurance effected either by the deceased or by any other person, or under any newspaper insurance?	
If so, please give particulars.	
(6) <i>Annuities, Pensions, Gratuities, etc.</i>	
Has any annuity or sum of money become payable upon the deceased's death to any person under any provident, superannuation, pension or other fund or scheme, or otherwise?	
If so, please give particulars.	
(7) In respect of which item is a certificate of exemption required.	
<i>Declaration.</i> —I do hereby declare that this Account and the Answers to the Observations above are true, correct and complete to the best of my knowledge and belief.	
Date	Signature.....
(The person by whom this account is delivered should sign it here.)	

E.D.-6

GOVERNMENT OF INDIA

ESTATE DUTY

Office of the Controller of Estate Duty, Circle No.....

The19

DISCHARGE CERTIFICATE WHERE NO DUTY IS PAYABLE

In the ESTATE of.....

Official Reference No. ED/File.....19.....

It is hereby certified that there is no claim for Estate Duty under the Estate Duty Act, 1953 in respect of the property hereinafter described as passing on the death of.....

late of.....who died on the..... day of.....
.....19.....

The property hereinbefore referred to.



Controller of Estate Duty.

[No. 2.]

R. K. DAS,
Secretary, Central Board of Revenue.

The Gazette of India



EXTRAORDINARY

PART II—Section 3

PUBLISHED BY AUTHORITY

No. 28] NEW DELHI, MONDAY, FEBRUARY 15, 1954

MINISTRY OF LAW

NOTIFICATIONS

New Delhi, the 15th February, 1954

S.R.O. 357.—In exercise of the powers conferred by clause (a) of sub-section (2) of section 12 of the Representation of the People Act, 1951 (XLIII of 1951), the President is pleased to call upon the elected members of the Legislative Assembly of each of the States specified in column (1) of the Table below to elect the number of members specified against that State in column (2) of that Table, in order to fill the seats in the Council of States of the members retiring on the 2nd April, 1954, on the expiration of their terms of office, in accordance with the provisions of the said Act and of the rules and orders made thereunder, before the 29th day of March, 1954, which is the date appointed in this behalf by the Election Commission:

TABLE

(1) Name of the State	(2) Number of seats to be filled
1. Andhra	4
2. Assam	2
3. Bihar	7
4. Bombay	5
5. Madhya Pradesh	4
6. Madras	6
7. Orissa	3
8. Punjab	3
9. Uttar Pradesh	10
10. West Bengal	5
11. Hyderabad	4
12. Madhya Bharat	2
13. Mysore	2
14. Rajasthan	3
15. Saurashtra	1

[No. F. 38(2)/54-L(I).]

S.R.O. 558.—In exercise of the powers conferred by clause (b) of sub-section (2) of Section 12 of the Representation of the People Act, 1951 (XLIII of 1951), the President is pleased to call upon the members of the electoral college of each of the States specified in column (1) of the Table below to elect the number of members specified against that State in column (2) of that Table, in order to fill the seats of the members of the Council of States retiring on the 2nd April, 1954, on the expiration of their terms of office, in accordance with the provisions of the said Act and of the rules and orders made thereunder, before the 29th day of March, 1954, which is the date appointed in this behalf by the Election Commission:

TABLE

(1) Name of the State	(2) Number of seats to be filled
1. Coorg	1
2. Kutch	1
3. Manipur	1
4. Vindhya Pradesh	2

[No. F. 38(2)/54-L(II).]

S.R.O. 559.—In exercise of the powers conferred by sub-section (2) of section 39 of the Representation of the People Act, 1951 (XLIII of 1951), the Central Government hereby appoints for the biennial elections to the Council of States to fill the seats that will fall vacant on the retirement of the members whose terms of office will expire on the 2nd April, 1954, to be held in pursuance of the notifications No. F. 38(2)/54-L (I) and No. F. 38(2)/54-L (II), dated the 15th February, 1954:

- (a) the 1st March, 1954, as the last date for making nominations;
- (b) the 5th March, 1954, as the date for the scrutiny of nominations;
- (c) the 8th March, 1954, as the last date for the withdrawal of candidatures;
and
- (d) the 22nd March, 1954, as the date on which a poll shall, if necessary, be taken.

[No. F. 38(2)/54-L(III).]

K. V. K. SUNDARAM, Secy.

The Gazette of India



EXTRAORDINARY

PART II—Section 3

PUBLISHED BY AUTHORITY

No. 29] NEW DELHI, MONDAY, FEBRUARY 15, 1954

ELECTION COMMISSION, INDIA

NOTIFICATIONS

New Delhi, the 15th February 1954

S.R.O. 560.—In exercise of the powers conferred by section 21 of the Representation of the People Act, 1951 (XLIII of 1951), the Election Commission, in consultation with the Government of Andhra, hereby designates the Secretary, Andhra Legislature, to be the Returning Officer for the election by the elected members of the Legislative Assembly of the State to fill the vacancies in the Council of States to be caused by the retirement of the members whose terms of office expire on the 2nd April, 1954.

[No. 320/1/54(i).]

S.R.O. 561.—In exercise of the powers conferred by sub-section (1) of section 22 of the Representation of the People Act, 1951 (XLIII of 1951), the Election Commission hereby appoints the Deputy Secretary, Andhra Legislature, to assist the Returning Officer for the election by the elected members of the Legislative Assembly of Andhra to fill the vacancies in the Council of States to be caused by the retirement of the members whose terms of office expire on the 2nd April, 1954, in the performance of his functions.

[No. 320/1/54(ii).]

S.R.O. 562.—In exercise of the powers conferred by section 21 of the Representation of the People Act, 1951 (XLIII of 1951), the Election Commission, in consultation with the Government of Assam, hereby designates the Secretary, Legislative Assembly, Assam, to be the Returning Officer for the election by the elected members of the Legislative Assembly of the State to fill the vacancies in the Council of States to be caused by the retirement of the members whose terms of office expire on the 2nd April, 1954.

[No. 320/2/54(i).]

S.R.O. 563.—In exercise of the powers conferred by sub-section (1) of section 22 of the Representation of the People Act, 1951 (XLIII of 1951), the Election Commission hereby appoints the Law Assistant to the Legal Remembrancer and Under Secretary to the Government of Assam, to assist the Returning Officer for the election by the elected members of the Legislative Assembly of Assam to fill the vacancies in the Council of States to be caused by the retirement of the members whose terms of office expire on the 2nd April, 1954, in the performance of his functions.

[No. 320/2/54(ii).]

S.R.O. 564.—In exercise of the powers conferred by section 21 of the Representation of the People Act, 1951 (XLIII of 1951), the Election Commission, in consultation with the Government of Bihar, hereby designates the Secretary, Bihar Legislative Assembly, to be the Returning Officer for the election by the elected members of the Legislative Assembly of the State to fill the vacancies in the Council of States to be caused by the retirement of the members whose terms of office expire on the 2nd April, 1954.

[No. 320/3/54(i).]

S.R.O. 565.—In exercise of the powers conferred by sub-section (1) of section 22 of the Representation of the People Act, 1951 (XLIII of 1951), the Election Commission hereby appoints the Deputy Secretary, Bihar Legislative Assembly, to assist the Returning Officer for the election by the elected members of the Legislative Assembly of Bihar to fill the vacancies in the Council of States to be caused by the retirement of the members whose terms of office expire on the 2nd April, 1954, in the performance of his functions.

[No. 320/3/54(ii).]

S.R.O. 566.—In exercise of the powers conferred section 21 of the Representation of the People Act, 1951 (XLIII of 1951), the Election Commission, in consultation with the Government of Bombay, hereby designates the Secretary, Bombay Legislature Department, to be the Returning Officer for the election by the elected members of the Legislative Assembly of the State to fill the vacancies in the Council of States to be caused by the retirement of the members whose terms of office expire on the 2nd April, 1954.

[No. 320/4/54(i).]

S.R.O. 567.—In exercise of the powers conferred by sub-section (1) of section 22 of the Representation of the People Act, 1951 (XLIII of 1951), the Election Commission hereby appoints the Deputy Secretary, Bombay Legislature Department, to assist the Returning Officer for the election by the elected members of the Legislative Assembly of Bombay to fill the vacancies in the Council of States to be caused by the retirement of the members whose terms of office expire on the 2nd April, 1954, in the performance of his functions.

[No. 320/4/54(ii).]

S.R.O. 568.—In exercise of the powers conferred by section 21 of the Representation of the People Act, 1951 (XLIII of 1951), the Election Commission, in consultation with the Government of Madhya Pradesh, hereby designates the Secretary to the Madhya Pradesh Legislative Assembly, to be the Returning Officer for the election by the elected members of the Legislative Assembly of the State to fill the vacancies in the Council of States to be caused by the retirement of the members whose terms of office expire on the 2nd April, 1954.

[No. 320/5/54(i).]

S.R.O. 569.—In exercise of the powers conferred by sub-section (1) of section 22 of the Representation of the People Act, 1951 (XLIII of 1951), the Election Commission hereby appoints the Under Secretary to the Madhya Pradesh Legislative Assembly, to assist the Returning Officer for the election by the elected members of the Legislative Assembly of Madhya Pradesh to fill the vacancies in the Council of States to be caused by the retirement of the members whose terms of office expire on the 2nd April, 1954, in the performance of his functions.

[No. 320/5/54(ii).]

S.R.O. 570.—In exercise of the powers conferred by section 21 of the Representation of the People Act, 1951 (XLIII of 1951), the Election Commission, in consultation with the Government of Madras, hereby designates the Secretary to the State Legislature, to be the Returning Officer for the election by the elected members of the Legislative Assembly of the State to fill the vacancies in the Council of States to be caused by the retirement of the members whose terms of office expire on the 2nd April, 1954.

[No. 320/6/54(i).]

S.R.O. 571.—In exercise of the powers conferred by sub-section (1) of section 22 of the Representation of the People Act, 1951 (XLIII of 1951), the Election Commission hereby appoints the Assistant Secretary, Madras Legislative Assembly to assist the Returning Officer for the election by the elected members of the

Legislative Assembly of Madras to fill the vacancies in the Council of States to be caused by the retirement of the members whose terms of office expire on the 2nd April, 1954, in the performance of his functions.

[No. 320/6/54(ii).]

S.R.O. 572.—In exercise of the powers conferred by section 21 of the Representation of the People Act, 1951 (XLIII of 1951), the Election Commission, in consultation with the Government of Orissa, hereby designates the Secretary, Orissa Legislative Assembly, to be the Returning Officer for the election by the elected members of the Legislative Assembly of the State to fill the vacancies in the Council of States to be caused by the retirement of the members whose terms of office expire on the 2nd April, 1954.

[No. 320/7/54(i).]

S.R.O. 573.—In exercise of the powers conferred by sub-section (1) of section 22 of the Representation of the People Act, 1951 (XLIII of 1951), the Election Commission hereby appoints the Assistant Secretary, Orissa Legislative Assembly, to assist the Returning Officer for the election by the elected members of the Legislative Assembly of Orissa to fill the vacancies in the Council of States to be caused by the retirement of the members whose terms of office expire on the 2nd April, 1954, in the performance of his functions.

[No. 320/7/54(ii).]

S.R.O. 574.—In exercise of the powers conferred by section 21 of the Representation of the People Act, 1951 (XLIII of 1951), the Election Commission, in consultation with the Government of Punjab, hereby designates the Secretary, Punjab Legislative Assembly Secretariat, to be the Returning Officer for the election by the elected members of the Legislative Assembly of the State to fill the vacancies in the Council of States to be caused by the retirement of the members whose terms of office expire on the 2nd April, 1954.

[No. 320/8/54(i).]

S.R.O. 575.—In exercise of the powers conferred by sub-section (1) of section 22 of the Representation of the People Act, 1951 (XLIII of 1951), the Election Commission hereby appoints the Assistant Secretary, Punjab Legislative Council Secretariat, to assist the Returning Officer for the election by the elected members of the Legislative Assembly of Punjab to fill the vacancies in the Council of States to be caused by the retirement of the members whose terms of office expire on the 2nd April, 1954, in the performance of his functions.

[No. 320/8/54(ii).]

S.R.O. 576.—In exercise of the powers conferred by section 21 of the Representation of the People Act, 1951 (XLIII of 1951), the Election Commission, in consultation with the Government of Uttar Pradesh, hereby designates the Secretary, Uttar Pradesh Legislative Assembly, to be the Returning Officer for the election by the elected members of the Legislative Assembly of the State to fill the vacancies in the Council of States to be caused by the retirement of the members whose terms of office expire on the 2nd April, 1954.

[No. 320/9/54(i).]

S.R.O. 577.—In exercise of the powers conferred by sub-section (1) of section 22 of the Representation of the People Act, 1951 (XLIII of 1951), the Election Commission hereby appoints the Assistant Secretary, Uttar Pradesh Legislative Assembly, to assist the Returning Officer for the election by the elected members of the Legislative Assembly of Uttar Pradesh to fill the vacancies in the Council of States to be caused by the retirement of the members whose terms of office expire on the 2nd April, 1954, in the performance of his functions.

[No. 320/9/54(ii).]

S.R.O. 578.—In exercise of the powers conferred by section 21 of the Representation of the People Act, 1951 (XLIII of 1951), the Election Commission, in consultation with the Government of West Bengal, hereby designates the Secretary, West Bengal Legislative Assembly, to be the Returning Officer for the election by the elected members of the Legislative Assembly of the State to fill the vacancies in the Council of States to be caused by the retirement of the members whose terms of office expire on the 2nd April, 1954.

[No. 320/10/54(i).]

S.R.O. 579.—In exercise of the powers conferred by sub-section (1) of section 22 of the Representation of the People Act, 1951 (XLIII of 1951), the Election Commission hereby appoints Shri Charu Chandra Chowdhuri, Special Officer, West Bengal Legislative Assembly, to assist the Returning Officer for the election by the elected members of the Legislative Assembly of West Bengal to fill the vacancies in the Council of States to be caused by the retirement of the members whose terms of office expire on the 2nd April, 1954, in the performance of his functions.

[No. 320/10/54(ii).]

S.R.O. 580.—In exercise of the powers conferred by section 21 of the Representation of the People Act, 1951 (XLIII of 1951), the Election Commission, in consultation with the Government of Hyderabad, hereby designates the Secretary, Hyderabad Legislative Assembly, to be the Returning Officer for the election by the elected members of the Legislative Assembly of the State to fill the vacancies in the Council of States to be caused by the retirement of the members whose terms of office expire on the 2nd April, 1954.

[No. 320/11/54(i).]

S.R.O. 581.—In exercise of the powers conferred by sub-section (1) of section 22 of the Representation of the People Act, 1951 (XLIII of 1951), the Election Commission hereby appoints Shri Narsing Rao Manvi, the Editor of Debates, Hyderabad Legislative Assembly, to assist the Returning Officer for the election by the elected members of the Legislative Assembly of Hyderabad to fill the vacancies in the Council of States to be caused by the retirement of the members whose terms of office expire on the 2nd April, 1954, in the performance of his functions.

[No. 320/11/54(ii).]

S.R.O. 582.—In exercise of the powers conferred by section 21 of the Representation of the People Act, 1951 (XLIII of 1951), the Election Commission, in consultation with the Government of Madhya Bharat, hereby designates the Secretary, Madhya Bharat Legislative Assembly, to be the Returning Officer for the election by the elected members of the Legislative Assembly of the State to fill the vacancies in the Council of States to be caused by the retirement of the members whose terms of office expire on the 2nd April, 1954.

[No. 320/12/54(i).]

S.R.O. 583.—In exercise of the powers conferred by sub-section (1) of section 22 of the Representation of the People Act, 1951 (XLIII of 1951), the Election Commission hereby appoints the Assistant Secretary, Madhya Bharat Legislative Assembly, to assist the Returning Officer for the election by the elected members of the Legislative Assembly of Madhya Bharat, to fill the vacancies in the Council of States to be caused by the retirement of the members whose terms of office expire on the 2nd April, 1954, in the performance of his functions.

[No. 320/12/54(ii).]

S.R.O. 584.—In exercise of the powers conferred by section 21 of the Representation of the People Act, 1951 (XLIII of 1951), the Election Commission, in consultation with the Government of Mysore, hereby designates the Secretary, Mysore Legislature, to be the Returning Officer for the election by the elected members of the Legislative Assembly of the State to fill the vacancies in the Council of States to be caused by the retirement of the members whose terms of office expire on the 2nd April, 1954.

[No. 320/13/54(i).]

S.R.O. 585.—In exercise of the powers conferred by sub-section (1) of section 22 of the Representation of the People Act, 1951 (XLIII of 1951), the Election Commission hereby appoints the Assistant Secretary to Government Legislative Department, Mysore Government Secretariat, to assist the Returning Officer for the election by the elected members of the Legislative Assembly of Mysore, to fill the vacancies in the Council of States to be caused by the retirement of the members whose terms of office expire on the 2nd April, 1954, in the performance of his functions.

[No. 320/13/54(ii).]

S.R.O. 586.—In exercise of the powers conferred by section 21 of the Representation of the People Act, 1951 (XLIII of 1951), the Election Commission, in consultation with the Government of Rajasthan, hereby designates the Secretary, Rajasthan Legislative Assembly, to be the Returning Officer for the election by the elected members of the Legislative Assembly of the State to fill the vacancies in the Council of States to be caused by the retirement of the members whose terms of office expire on the 2nd April, 1954.

[No. 320/15/54(1).]

S.R.O. 587.—In exercise of the powers conferred by sub-section (1) of section 22 of the Representation of the People Act, 1951 (XLIII of 1951), the Election Commission hereby appoints the Deputy Secretary, Rajasthan Legislative Assembly, to assist the Returning Officer for the election by the elected members of the Legislative Assembly of Rajasthan, to fill the vacancies in the Council of States to be caused by the retirement of the members whose terms of office expire on the 2nd April, 1954, in the performance of his functions.

[No. 320/15/54(ii).]

S.R.O. 588.—In exercise of the powers conferred by section 21 of the Representation of the People Act, 1951 (XLIII of 1951), the Election Commission, in consultation with the Government of Saurashtra, hereby designates the Secretary, Saurashtra Legislative Department, to be the Returning Officer for the election by the elected members of the Legislative Assembly of the State to fill the vacancy in the Council of States to be caused by the retirement of the member whose term of office expires on the 2nd April, 1954.

[No. 320/16/54(1).]

S.R.O. 589.—In exercise of the powers conferred by sub-section (1) of section 22 of the Representation of the People Act, 1951 (XLIII of 1951), the Election Commission hereby appoints the Assistant Secretary, Saurashtra Legislative Department, to assist the Returning Officer for the election by the elected members of the Legislative Assembly of Saurashtra, to fill the vacancy in the Council of States to be caused by the retirement of the member whose term of office expires on the 2nd April, 1954, in the performance of his functions.

[No. 320/16/54(ii).]

S.R.O. 590.—In exercise of the powers conferred by section 21 of the Representation of the People Act, 1951 (XLIII of 1951), the Election Commission, in consultation with the Central Government, hereby designates the Chief Secretary to the Government of Coorg, to be the Returning Officer for the election by the members of the Electoral College for the State of Coorg, to fill the vacancy in the Council of States to be caused by the retirement of the member elected from the State of Ajmer and whose term of office expires on the 2nd April, 1954.

[No. 320/18/54(1).]

S.R.O. 591.—In exercise of the powers conferred by sub-section (1) of section 22 of the Representation of the People Act, 1951 (XLIII of 1951), the Election Commission hereby appoints the Law Secretary to the Government of Coorg, to assist the Returning Officer for the election by the members of the Electoral College for the State of Coorg, to fill the vacancy in the Council of States to be caused by the retirement of the member elected from the State of Ajmer whose term of office expires on the 2nd April, 1954, in the performance of his functions.

[No. 320/18/54(2).]

S.R.O. 592.—In exercise of the powers conferred by section 21 of the Representation of the People Act, 1951 (XLIII of 1951), the Election Commission, in consultation with the Central Government, hereby designates Shri H. S. Chhaya, Deputy Collector, Central Division, Bhuj, to be the Returning Officer for the election by the members of the Electoral College for the State of Kutch, to fill the vacancy in the Council of States to be caused by the retirement of the member whose term of office expires on the 2nd April, 1954.

[No. 320/19/54(1).]

S.R.O. 593.—In exercise of the powers conferred by sub-section (1) of section 22 of the Representation of the People Act, 1951 (XLIII of 1951), the Election Commission hereby appoints Shri D. L. Vaidya, Mamlatdar, Bhuj, to assist the Returning Officer for the election by the members of the Electoral College for the State of Kutch, to fill the vacancy in the Council of States to be caused by the retirement of the member whose term of office expires on the 2nd April, 1954, in the performance of his functions.

[No. 320/19/54(2).]

S.R.O. 594.—In exercise of the powers conferred by section 21 of the Representation of the People Act, 1951 (XLIII of 1951), the Election Commission, in consultation with the Central Government, hereby designates Shri M. N. Phukan, Deputy Commissioner, Manipur, to be the Returning Officer for the election by the members of the Electoral College for the State of Manipur, to fill the vacancy in the Council of States to be caused by the retirement of the member elected from the State of Tripura whose term of office expires on the 2nd April, 1954.

[No. 320/20/54(1).]

S.R.O. 595.—In exercise of the powers conferred by sub-section (1) of section 22 of the Representation of the People Act, 1951 (XLIII of 1951), the Election Commission hereby appoints Shri S. Gouhari Singh, Assistant Secretary, Home Department, Manipur, to assist the Returning Officer for the election by the members of the Electoral College for the State of Manipur, to fill the vacancy in the Council of States to be caused by the retirement of the member elected from the State of Tripura whose term of office expires on the 2nd April, 1954, in the performance of his functions.

[No. 320/20/54(2).]

S.R.O. 596.—In exercise of the powers conferred by section 21 of the Representation of the People Act, 1951 (XLIII of 1951), the Election Commission, in consultation with the Central Government, hereby designates the Secretary, Vindhya Pradesh Legislative Assembly, to be the Returning Officer for the election by the members of the Electoral College for the State of Vindhya Pradesh, to fill the vacancies in the Council of States to be caused by the retirement of the members whose terms of office expire on the 2nd April, 1954.

[No. 320/21/54(1).]

S.R.O. 597.—In exercise of the powers conferred by sub-section (1) of section 22 of the Representation of the People Act, 1951 (XLIII of 1951), the Election Commission hereby appoints the Assistant Secretary, Vindhya Pradesh Legislative Assembly, to assist the Returning Officer for the election by the members of the Electoral College for the State of Vindhya Pradesh to fill the vacancies in the Council of States to be caused by the retirement of the members whose terms of office expire on the 2nd April, 1954, in the performance of his functions.

[No. 320/21/54(2).]

By Order,

P. N. SHINGHAL, Secy.

23.2-54

The Gazette of India



EXTRAORDINARY PART II—Section 3 PUBLISHED BY AUTHORITY

No. 30] NEW DELHI, FRIDAY, FEBRUARY 19, 1954

ELECTION COMMISSION, INDIA

NOTIFICATION

New Delhi, the 1st February 1954

S.R.O. 689.—Whereas the election of Shri Ridhi Chand Palliwal, as a member of the Legislative Assembly of the State of Rajasthan, from the Hindaun constituency of that Assembly, has been called in question by an Election Petition duly presented under Part VI of the Representation of the People Act, 1951 (XLIII of 1951), by Shri Rikhab Das S/o Shri Panna Lal Mahajan, Hindaun;

And whereas the Election Tribunal appointed by the Election Commission in pursuance of the provisions of Section 86 of the said Act, for the trial of the said Election Petition has, in pursuance of the provisions contained in section 103 of the said Act, sent a copy of its Order to the Commission;

Now, therefore, in pursuance of the provisions of Section 106 of the said Act, the Election Commission hereby publishes the said Order of the Tribunal.

IN THE ELECTION TRIBUNAL, JAIPUR

ELECTION PETITION No. 281 OF 1952.

Rikhab Das, *Petitioner.*

Versus

Ridhichand Palliwal & 6 others—*Respondents.*

PRESENT

The Hon'ble Mr. Justice K. K. Sharma, *Chairman.*

Mr. A. N. Kaul, *Member.*

Mr. P. L. Shome, *Member.*

Mr. U. M. Trivedi & Mr. B. P. Agrawal, for the petitioner.

Mr. V. P. Tyagi & Mr. R. C. Jain, for respondent No. 1.

ORDER

Dated 19th December, 1953.

(PER. SHRI SHOME, MEMBER).

In this election petition, the petitioner, Rikhab Das, seeks to set aside the election of respondent No. 1 Ridhichand Palliwal, to the Hindaun Constituency of the Rajasthan Legislative Assembly on the ground that the election had not been free and fair in view of certain corrupt and illegal practices, which have been narrated by the petitioner in paragraph 13 of the election petition.

The constituency is a double member constituency one seat being reserved for a scheduled caste member. The petitioner and the respondent No. 1 contested for the General Constituency. The petitioner stood on behalf of the Jan Sangh

and had Dipak mark as his symbol. The respondent No. 1 stood on behalf of the Congress and his symbol was "a pair of bullocks with a yoke on". The respondent No. 1 was declared elected to the General Seat. Besides the respondent No. 1, six other persons have been made respondents in the petition, of whom the respondent No. 7 Chhanga Chamar, was declared elected to the seat reserved for scheduled castes.

The respondent No. 1 contests this petition, and he has filed a written statement denying all the allegations regarding corrupt and illegal practices named in the election petition, and pleading some further objections in bar to the trial of this election petition, which will be narrated later. Amongst other respondents, respondent No. 5, Gulabchand Palliwal, who is the son of the respondent No. 1, Ridhichand Palliwal, was present all along during the trial. The respondent No. 3 Bhorilal Jaimini also filed a written statement, but he did not take any further steps. The respondent No. 7, Chhanga Chamar, the returned scheduled caste member, also appeared till the framing of the issues in the case, but thereafter did not take any part in the proceedings.

After the written statements were filed, but before the issues were framed, the petitioner presented two applications for amendment of the election petition, by one of which he prayed for the addition of a word, which was omitted by oversight. This being a clerical mistake, and the counsel for the contesting respondent not objecting, the amendment was allowed. By the other application for amendment, the petitioner sought to add another ground under the grounds narrated in paragraph 13 of his election petition, which would have meant the addition of another item of corrupt practice to his allegations. After hearing the parties on this matter, the Tribunal rejected the petitioner's prayer by its order dated 12th January, 1953. The said order is annexed herto, and marked "Annexure A".

Thereafter the parties were examined under Order X, Rule 1, of the Code of Civil Procedure, and issues were framed. The substantial allegations and denials made by the respective parties will appear from the issues themselves, and we do not find it necessary to narrate these allegations over again. The issues framed were:—

- (1) Whether on the 3rd January, 1952 stones were thrown on the petitioner's procession from the office of the respondent No. 1 in Hindaun town in order to disperse it and overawe and terrorise the electorate of Hindaun?
- (2) Whether on 6th January, 1952, at Jagar polling station the presiding officer, Shri Iqbal Bahadur, Assistant Headmaster prevented the voters of the petitioner from voting by telling them that their chance had not come and as a consequence thereof the petitioner lost about 300 votes?
- (3) Whether the petitioner's agent Kalyan Prasad was not allowed to leave the polling booth at Jagar Polling station?
- (4) Whether at Kachroli polling station the presiding officer did not allow the petitioner to enter the polling booth and whether as a result thereof the petitioner lost about 300 votes?
- (5) Whether on the night between the 15th and 16th January, 1952, 3 workers of the petitioner mentioned in the police report dated 15th January 1952 of Wazirpur Police Station were arrested?
- (6) Was section 144 of the Code of Criminal Procedure promulgated in Gangapur town on 19th January, 1952 banning the meeting & processions?
- (7) Whether 16 workers of the petitioner mentioned in paper No. 5 of the list were arrested on 19th January 1952?
- (8) Whether a regular canvassing Office was set up within 100 yards of the booth by the respondent No. 1 at polling station No 588 at Hindaun on the 4th January, 1952 and the Presiding Officer, Shri Hukumsingh did not take any steps to remove it in spite of the objection by the petitioner?
- (9) Whether at Kotri polling Station No. 607 Gomti widow of Charanlal was allowed to vote for Govindi wife of Galinda though her name was not in the voters' list.
- (10) Whether at Piloda polling station on the 10th January 1952, Shri Raj Bahadur the then Deputy Minister in the Central Government freely canvassed for the respondent No. 1 in the polling booth among the voters?

- (11) Whether at Mandawar, in the polling station No. 615 Gangapur the petitioner was not allowed to put his seal on the ballot boxes?
- (12) Whether the then Patwaries of Katkar, Jherara, Shri Mahavirji and Sherpur distributed identity slips on behalf of the respondent No. 1?
- (13) In Master Kastoor Chand a Government employee and whether he distributed identity slips on behalf of respondent No. 1?
- (14) Is Shivkumar Sharma a Government employee and whether he made any speech in favour of respondent No. 1 at the meeting addressed by Shri Tikaram Paliwal within a couple of days before the election?
- (15) Is Ram Sahai Sharma a Government servant and whether he exhorted the voters to vote for the candidate whose symbol was a pair of bullocks with a yoke?
- (16) Whether Fateh Singh S.D.O. Hindaun, Some Nath Sant Naib Tahsildar and the then Patwari of Sherpur were transferred to other places within two months before the election?
- (17) Whether the allegations in the petition covered by issues No. 1 to 16 amount to corrupt practices under the Act and invalidate the election?
- (18) What is the effect of not claiming any relief against the respondent No. 7 Changa who is the second elected candidate from Hindaun Constituency?

At the trial the petitioner examined himself and 25 other witnesses on his behalf, and exhibited a large number of documents. The respondent No. 1, who was the sole contesting respondent in the case, examined 15 witnesses on his behalf, but did not examine himself. The respondent No. 1 also exhibited some documents on his behalf.

Before going into the merits of the case it is necessary to take up an objection raised by the learned counsel for the respondent at the beginning of his arguments. He contended that under section 83(2) of the Representation of the People Act, 1951, (hereinafter to be referred to as the Act) it was compulsory for the petitioner to append a list setting forth full particulars of the corrupt and illegal practices which he alleged including as full as statement as possible as to the names of the parties alleged to have committed such corrupt or illegal practices and the date and place of the commission of each such practice. He submitted that besides the allegations made in paragraph 13 of the election petition, the petitioner did not submit any separate list as required under section 83 (2) of the Act, and, therefore, this election petition could not be proceeded with. Reliance was placed in support of his contention by the learned counsel for the respondent on two decisions of the North Gujarat Election Tribunal in Election Petition No. 83 of 1952. (*Purushotamdas Ranchhoddas Patel versus Shantilal, Girdharilal Parikh and others*) and in Election Petition No. 77 of 1952 (*Kanaiyalal Durabham Bhansali versus Popatlal Mulshankar Joshi and others*) reported in the *Gazette of India Extraordinary*, Part I, Section I, dated the 10th October, 1952, at page 2261, and the 14th October 1952, at p. 2271, respectively. In each of these cases the objection was taken before evidence was gone into and an issue was raised on the point, which was decided as a preliminary objection as to whether the petitioner could lead evidence in support of the vague allegations made by him. The Tribunal held in both the cases that the petitioners could not do so, and going elaborately into the allegations made in the respective election petitions and in the papers filed subsequently as lists of corrupt and illegal petitions and in the papers filed subsequently as lists of corrupt and illegal corrupt or illegal practices and that the averments actually made were of too vague and general a character as to put the contesting respondent to any notice. The present case before us stands on a different footing. This objection was not taken by the learned counsel for the contesting respondent at the time of the framing of the issues, nor was the objection raised in any of the issues. It is, therefore, in my view too late for the respondent to plead this objection in bar of the election petition at this stage, after evidence has been recorded at length on behalf of both sides. As a matter of fact some of the allegations made in paragraph 13 of the election petition being considered vague and indefinite have not been included in the issues, and the issues have been framed with regard to those allegations made in the election petition about which the particulars were full and complete. It cannot, therefore, be said that the respondent has, in any way, been prejudiced in making his defence, and in any case, after the full hearing of the case, in which so many witnesses have been examined and a large

number of documents have been put in evidence by both sides, this objection, in my view, is not now material and cannot be sustained. I, therefore, overrule this objection, and take up the consideration of the case on the merits.

I take up the issues one by one.

Issue No. 1.—Petitioner's case under this issue is that the polling of votes took place at the Hindaun polling station on the 4th January, 1952, and on the previous day, i.e., the 3rd January on the evening a procession was taken out at Hindaun on behalf of the petitioner. It is alleged that stones were thrown on the procession from the office of the respondent No. 1 in order to disperse it and thereby overawe and terrorise the electorate of Hindaun.

The petitioner (P.W. 2) in his deposition stated that at Hindaun Polling took place on the 4th January, and on the 3rd January at about 6 in the evening he took out a procession at Hindaun. When this procession reached Sarafa, stones were thrown from the office of the respondent No. 1, which was situated in the locality, on the first floor of a building. He did not know exactly whether it was respondent No. 1's personal office or the office of the party, i.e., the Congress, but it used to be called the Congress Office. These stones hit some of the members of the procession, who flew in different directions. He said that it appeared to him that this was done with a view to disperse the procession and to prevent his propaganda. In his cross-examination he stated that at the time stones were thrown on the procession, some persons were visible on the 1st floor of the Congress office, of whom he recognised Ramjilal Jain, Kalyan Prasad, Surajmal and some inmates of the Jain Boarding House, Hindaun, whom he knew by face, but not their names. He said that he had made a report to the police about the pelting of stones on his procession, but that report has not been produced before the Tribunal. He further says that he did not pursue the report further and is not aware of any investigation having been made thereon and the result thereof.

The petitioner examined 5 other witnesses on the point, viz., P.W. 13, Chiranjilal, P.W. 14, Mangilal, P.W. 15, Darola, P.W. 17 Gokul and P.W. 19 Omprakash. These witnesses in the main support the story of the petitioner, though there are some minor discrepancies in the statements of some of the witnesses, which do not appear to be material or detract from the strength of the support they give to the Petitioner's story.

On the respondent's side, the story takes a different shape. The respondent's witnesses on the point are R.1/W.4 Ramjilal and R.1/W.6 Abdur Rahman. Their story is that when the petitioner's procession was passing along the processionists raised slogans against the Congress, and that some of them entered the Congress office and had beaten some of the boys there and damaged certain papers. R.1/W.4 Ramjilal said that he then went to the Congress office with one Madan Mohan and found three boys weeping and some of the papers scattered about. He did not name any of the three boys, nor were any of those boys or the said Madan Mohan examined in the case. This witness further said that when he was going up the Congress Office, he found a Jansangh boy Om Prakash coming down-stairs from the Congress office. One Om Prakash was examined as P.W. 19, and he denied that he or any other people of his side had rushed into the Congress office; it was not put to him in cross-examination that he had entered the Congress office at the time. R.1/W. 4, Ramjilal further stated that leaving the papers in a scattered condition and the boys weeping, he went to the Police Station, and as Secretary of the Hindaun Congress Committee he made a report to the Police. On the report being recorded, the Sub-Inspector of Hindaun Police Station came along with him to the Congress Office and made enquiries. The report made to the police has not been produced before us, nor any evidence given about the result of the alleged inquiry made by the police in respect thereto.

The other witness, R.1/W.6, Abdur Rahman, says that when he was in Congress Office, the procession stopped in front of the Congress Office, and then a number of people came up inside the Congress Office and beat some of the boys. He hid himself, and the other Congress workers went up. He does not mention the names of the boys who were beaten nor of the other Congress workers who were there, but went up. Though he admits that he had been to Hindaun hundreds of times, and that he was a member of the Congress at Gangapur since 1940, he averred that he did not know the names of the Congress people found inside the Congress office at Hindaun at the time of the procession, nor did he know the names of the boys beaten. He further said that on report being made by witness Ramjilal (R.1/W.4) to the police, a Sub-Inspector came, examined the boys, but he says that though he was at the Congress office when the Police came there to inquire, the police did not record his statement.

The taking out of the procession by the petitioner on that day for his propaganda is admitted by the respondent's side. So the question whether there were music, or slogans, or bands or flags and whether they were in the front or in the rear is not of much importance. Witness Chiranjilal (P.W. 13) says that he was hit on the shoulder by a stone. Other witnesses also support the stone-throwing. But there is no clear evidence that these stones were thrown from the office of the respondent No. 1 or the Congress Office. No one could say who threw the stones. All that they said was that the stones came from the direction of the Congress Office, and that some persons including Riddichand were found standing on the roof. Some said that the stones came from the roof in front of the Congress office. The petitioner himself said that in the report that he made to the police, he did not name any particular persons suspected to have thrown the stones. It is, therefore, difficult to fasten the liability on the respondent No. 1, or the Congress Office, though the story set up by the respondent No. 1 in the matter and his non-production of material evidence, which he could have and ought to have produced, raises some suspicion that the petitioner's story might be true; but in the absence of reliable and direct evidence on the point as to who threw the stones, it is difficult to come to a finding that the respondent No. 1 was responsible therefor. It seems likely that both parties are guilty of *suppressio veri* and *suggestio falsi*. It may be that stones were thrown on the petitioner's procession and as a retaliation, his men chased the stone-throwers to the Congress office; but it was for the petitioner to prove his case *viz.*, that stones were thrown on his procession and that the same was done at the instance of the respondent No. 1. The evidence adduced by him falls far short of the required proof. The petitioner, in our view, has failed to discharge the onus resting on him to prove his allegation and the issue is therefore, decided against him.

Issues Nos. 2 and 3.—By issue No. 2 the petitioner wants to suggest that on the 6th of January, 1952, at Jagar Polling Station Shri Iqbal Bahadur, Presiding Officer, prevented the voters of the petitioner from voting by telling them that their chance had not come and as a consequence thereof the petitioner had lost about 300 votes, and further by issue No. 3, that when the petitioner's agent Kalyan Prasad wanted to come out of the polling booth to inquire into the matter, he was not allowed to come out.

On this point the petitioner has made his own statement and examined six other witnesses, *viz.*, P.W. 1, Kalyan Prasad, P.W. 9, Parsadi, P.W. 10, Shri Lal, P.W. 11 Shri Ram, P.W. 12 Bhagwat, and P.W. 25, Kedar Prasad. The petitioner, who is P.W. 2, says that he reached Jagar polling station about 2 minutes after 4 P.M. when he found about 300 or 400 voters of both sexes returning from the polling station. Some of them were standing there also. They complained to him that they were not allowed to vote, and reprimanded him for his bad arrangements, due to which they were not allowed to cast their votes. They told him also that they had been at the polling station since about 2 P.M., and that they could not cast their votes because they were asked by a constable to wait as their turn had not come. He further said that he also met his polling agent Kalyan Prasad who told him that the Presiding Officer, who was also known as the Drawing Master, prevented him from going out, and when he wanted to go out for the second time, the Drawing Master threatened him that he would be driven out by the ear. The petitioner's evidence is that after this complaint he went inside the polling booth and asked the presiding officer why his voters were not allowed to vote. The presiding officer asked him to make any complaint that he had in writing, whereupon he filed a complaint in writing. A copy of the said complaint submitted to the presiding officer, which contains a signed receipt from the said presiding officer, was proved on behalf of the petitioner and is marked Ex. P. 5. The Presiding Officer, Iqbal Bahadur, who was examined as witness No. 8 for the respondent No. 1 and to whose evidence I shall refer later on, admitted the receipt of this complaint. But this complaint proves nothing further than what the petitioner had said, namely, that some of the voters had complained that they had not got the opportunity to vote. P.W. 1 Kalyan Prasad, who was the polling agent of the petitioner at one of the booths at that polling station, said that he heard some noise outside and the people were crying that they were not being allowed to go inside, and that when he wanted to go out the presiding officer stopped him from going out. Shortly afterwards there was again a cry that the people were not allowed to go inside the polling booth. He again wanted to go out but the presiding officer told him that if he persisted he would be driven out and would not be allowed to come in again, and therefore he could not go out. He further said that after the polling was over, the petitioner came inside the polling booth and on his complaining to the petitioner about the matter the latter gave a written complaint to the presiding officer. He also said that when he came out of the polling booth

the people holding Congress slips were allowed to go inside, whereas a constable prevented them from going inside. P.W. 9 Parshadi said that he came to the polling booth to vote, and had a slip with him which bore Dipak mark, that is, the symbol of the petitioner, and that when he reached the polling booth he found that there were two queues of voters, one for those who had slips with Deepak mark and the other for those who had slips of the mark of a pair of bullocks with a yoke on. He further said that he was made to stand in queue of the voters of Dipak mark slips by a constable who said that first the voters of the queue of the slips of the mark of a pair of bullocks with a yoke on would be allowed to vote. He said that there were about 50 persons ahead of him and about 100 to 200 behind. Some of those who were ahead of him could cast their votes, while some could not, and all those behind him could not at all cast their votes. His evidence is that of the voters of the other queue only about two to four could not vote, while all others could vote, because they had precedence. P.W. 10 Shri Lal, P.W. 11 Shri Ram, and P.W. 12 Bhagwat made almost similar allegations. P.W. 25, Kedar Prasad, was the polling agent of the petitioner at the second polling booth of the Jagar polling station. He also said that he heard cries outside to the effect that the voters were not being allowed to come inside the booth, and that he tried to come out twice, but was prevented from doing so by the Presiding Officer. He made a complaint to the presiding officer in writing, which has been marked Ex. p. 33. But this exhibit only shows that he had stated that the agent Mishrilal had gone outside the office and was talking there. There is nothing in this complaint to show that he brought it to the notice of the Presiding Officer that voters were not allowed to enter the polling booth. This is all the evidence on these two issues on behalf of the petitioner.

On the respondent's side only two witnesses have been examined on these two issues, namely, Iqbal Bahadur, the presiding officer of the Jagar Polling Station, R.1/W. 8, and Chand Khan, Head Constable, R.1/W. 12. Their evidence is to the effect that two queues were directed to be arranged for the entry of voters to the polling booth, but these were not on the basis of any symbol of the candidates, but on the basis of groups of villages. The Presiding Officer said that he often came out of the polling booth to see whether the queues were properly arranged or not, and when he came out none complained to him that they were not being allowed to enter and vote. He says that at about 3 P.M. he heard some uproar and on enquiry a constable said that it was due to some of the voters breaking the queue. He further says that at about 3-15 P.M. there was an uproar towards Jan Sangh camp, and some persons armed with lathis proceeded towards the polling station crying "Bachchu Singh ki Jai". They asked some of the voters not to vote and leave the place, whereupon he with the help of the head constable and others brought the situation under control, and the voters who remained on the spot were able to cast their votes. The polling thereafter continued peacefully. He further says that he made a report about this incident in his situation report which has been marked Ex. R.1/3. R.1/W. 12 Chand Khan Head Constable supports the presiding officer Iqbal Bahadur on the point. He also says that the queues were made by groups of villages and not by symbols of the candidates and that except the uproar a little after 3 P.M. in which some persons came out crying "Bachchu Singh ki Jai" and threatened some of the voters, there was no other obstruction to the voters in any way in going inside the polling booth and casting their votes.

Now analysing and comparing the two sets of evidence on the point, it appears that, in the first place, in the complaint made by the petitioner there was no mention of the queues of voters being made on the basis of symbols of rival candidates. If it were so, the alleged complaint to the petitioner by the voters having slips bearing his symbol mark who could not vote would have been mentioned and it would have been stated that all his voters were put in one queue and all of them were prevented from going inside to vote, but that was not the case. Secondly, it would seem preposterous to arrange the voters by the symbol marks of the candidates for whom they had come to vote. This would result in infringing the secrecy of ballot and this would in itself be a serious ground for challenging the election. If the real facts had been like that the petitioner would certainly have made this a ground of his attack in this election petition but he has not done so. Thirdly, this allegation of the petitioner seems to be unreal for another reason, namely, that according to the rules of election under the proviso to clause (2) of Rule 17 of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1951, all the voters present within the polling station before the voting is closed are entitled to have their votes recorded. It is clear from the evidence adduced by both the parties on the point that the queues of voters in whichever way they might have been arranged, were within the polling station, and the evidence of the petitioner's witnesses is that some of the voters reached there at about 12 noon, and others at about 2 P.M. If that be

so, there was no reason why their votes could not be recorded even though the voters of the rival candidate had been given the preference to enter the polling booth and vote. The complaint, therefore, seems to me to be unreal. Issue No. 2 therefore fails and as a consequence issue No. 3 would also fail, because it really depend upon the truth or otherwise of the allegation made regarding the obstruction to voters. Further the allegation that Kalyan Prasad was not allowed by the Presiding Officer to come out is made by only Kalyan Prasad himself but he is not supported by any other witness, except petitioner who only heard about it from Kalyan Prasad. It is not possible to rely on Kalyan Prasad's uncorroborated statement, which is denied by the Presiding Officer. I decide these two issues against the petitioner.

Issue No. 4.—This issue raises a question as to whether at the Kachroli Polling Station, the Presiding Officer did not allow the petitioner to enter the polling booth and whether as a result thereof the petitioner lost about 300 votes. This issue is divided into two parts, namely, whether the petitioner was not allowed to enter the polling booth by the Presiding Officer and whether he lost 300 votes in consequence.

With regard to the first portion of the issue, the petitioner P.W. 2 in his deposition stated that the Presiding Officer was Shri Ram Swarup, Head Master of the Government High School at Hindaun, and that the petitioner had been residing at Hindaun for about 15 or 16 years, and he was known to the said Presiding Officer from long before the polling day, and had met him scores of times. He says that he had been to the Kachroli Polling Station on the day of polling, the 6th of January, 1952, and when he went inside the polling booth to see his polling agent, the Presiding Officer asked him how he had got inside. The petitioner told him that he was Rikhab Das, one of the candidates, and that his votes were being recorded there, but the Presiding Officer told him that he did not know him and asked him to get out. The Presiding Officer also asked the Head Constable, who was posted there, to see him out. The petitioner then told the Presiding Officer that he was giving him in writing that he was the candidate and that the Presiding Officer should also give in writing that the petitioner should go out. At that time it was about 11 A.M. or 12 noon. Thereupon the petitioner gave a complaint in writing to the Presiding Officer, which has been marked as Ex. P. 6; it bears an endorsement by the Presiding Officer, and is signed by him in English. This document proves this much that the petitioner complained to the Presiding Officer that the latter was not allowing him to remain in the polling booth, and the petitioner stated therein that he would hold the Presiding Officer responsible for all the loss that he might incur in consequence of the Presiding Officer's action. The last sentence in the document states that the Presiding Officer was also presiding over the polling at the Hindaun Polling Booth on the previous polling day, that is, 4th January, 1952, and he was freely allowed to go in and come out of the said polling booth. The Presiding Officer, Ram Swarup, passed an order on the petition in which he states that it would be good if the petitioner gets something in writing from a high officer to the effect that he is the candidate or he may produce two responsible persons to identify him as such. The petitioner states in his evidence that he thereupon produced two witnesses before the Presiding Officer for identifying him, and when he took these two witnesses he filed a petition before the Presiding Officer, which has been marked as Ex. P. 7, in which he states that he has produced Shri Indarmal and Bhagwat Singh for identifying him, and proper order may be passed. The Presiding Officer thereupon passed an order on the document stating that he did not know any of these two persons, and, therefore, he could not do anything in the matter. The petitioner then states that thereupon he came out of the polling booth, and when he came out, the people told him what could he do in the Legislature when he could not command any recognition at the hands of the Presiding Officer. So being disgusted, he left Kachroli. In his cross-examination the petitioner has further said that Ram Swarup, Presiding Officer, had been at Hindaun for the last 3 years, that prior to the polling day Ram Swarup had met him scores of times at Hindaun, and he was even invited by the said Ram Swarup to become a member of the Managing Committee that was formed on the occasion of the celebration of the Education Week at Hindaun. That was a few months before the polling day. The petitioner is supported in his statement by P.W. 24 Surajmal, who is a lawyer by profession, and was the election agent of Hiralal, a Jan Sangh candidate for the Scheduled Caste seat. He supported the petitioner in material particulars in this matter. He says in his evidence:—

"I had been to Kachroli also on the date polling took place there. When the petitioner Rikhab Das wanted to enter the polling booth at Kachroli the Presiding Officer, Master Ram Swarup, did not allow him to go in, saying that he did not know him. The petitioner said

that he was candidate and was known to the Presiding Officer, who was the Presiding Officer at Hindaun also on the 4th January, 1952, and the petitioner had appeared before him then, and no objection was made at that time. Master Ram Swarup asked the petitioner to produce witnesses before him. The petitioner went with two witnesses but even then the Presiding Officer did not allow the petitioner to enter into the booth. The petitioner said that this action of the Presiding Officer was insulting to the petitioner and it would discourage his voters. The petitioner asked the presiding officer to take a declaration of his that he was the candidate. But the Presiding Officer did not allow the petitioner to do even that. When I saw the attitude of the Presiding Officer towards the petitioner. I also left the place lest I should also be meted out the same treatment."

In his cross-examination he says that when he left the polling station at about 11 A.M. the petitioner was staying behind.

As against this evidence, the respondent No. 1 examined the Presiding Officer Ram Swarup, R. 1/W. 7. This witness admits that he stopped the petitioner from entering the polling booth even in spite of his saying that he was one of the candidates, and called upon him to produce witnesses to say that he was one of the candidates. He admits his endorsement on Exs. P.6 and P. 7, but he says that the last sentence in Ex. P.6, in which the petitioner states that the same Presiding Officer was presiding at the election on the previous polling day, i.e., 4th January, at Hindaun, and he saw the petitioner and allowed him to go inside the polling booth, was not there. This matter was not put to the petitioner in his cross-examination and seems to be an after-thought. In any case there is no doubt that he was also the Presiding Officer at Hindaun on the previous polling day i.e., 4th January 1952 and he does not even say that he did not see the petitioner on that day, which seems unlikely, as in this constituency, polling was taking place at one polling station only on alternate days and the petitioner candidate was likely to be there and if so, it is also likely that the Presiding Officer must have seen him there. No reasons have been given by this witness as to why a candidate coming to a polling booth, though not personally known to the Presiding Officer, should be asked to produce identifiers or certificates from high officer to prove his identity—a procedure which is somewhat extraordinary. There are no provisions for such certificates or identifications in the Act or Rules. It also appears from his evidence that Om Prakash, the polling agent of the petitioner at Kachroli polling station, was present at the time, but the Presiding Officer did not ask the said polling agent anything about the identity of Rikhab Das petitioner, though he knew that Rikhab Dass was the principal and Om Prakash was his agent. He also admits that some time before the last General Election an Education Week was celebrated at Hindaun, and the petitioner was a member of that committee. But he says that in that connection he never came to school before him. This witness has tried to make out a case that the petitioner had disturbed him in his work, and therefore, he did not allow him to enter the polling booth. Learned counsel for the contesting respondent tried to argue that under section 132 of the Representation of the People Act the Presiding Officer had power to remove any person for misconduct. No misconduct, however, was alleged against the petitioner, and nothing was put to the petitioner to that effect in his cross-examination. This case also, therefore, seems to be an afterthought. The petitioner seems to be a well-known person in Hindaun, where the Presiding Officer is employed as Headmaster of the High School. Another teacher of the High School, Shri Iqbal Bahadur was also a presiding officer at another polling station and he has been examined in connection with another affair in this case; he says in his evidence that the petitioner is a prominent man in Hindaun. It is, therefore, difficult to believe that the Presiding Officer should not know the petitioner, and his action in not allowing him to enter and remain in the polling booth appears to us to be improper and illegal. His persistence even after he was told that the incoming person was a candidate and still further even after two identifiers were brought in, to refuse his admittance reveal a state of mind which is not normal or impartial, and ill-befits the position of a person of his status, as Head Master of a High School and as a Presiding Officer at a public election.

He says at the end that the petitioner brought in a second set of identifiers, upon which the petitioner was allowed to stay on and was even magnanimously offered a stool to sit on. This statement of witness is not corroborated by any other evidence on record. The petitioner says that after he was refused to stay on the production of two identifiers, he left the booth in disgust. Considering the conduct and temper of the Presiding Officer as disclosed by his own evidence, it is difficult to rely on this statement of his without any corroboration. In any

case, by two refusals to admit, the mischief had been done, and what the effect thereof would be on the result of the election would be considered under issue No. 17.

Next comes the question as to whether in consequence of this act of the Presiding Officer the petitioner lost about 300 votes. On this point his statement is that when he came out of the polling booth, the people ridiculed him that he could do nothing in the Legislature as he could not command any recognition at the hands of the Presiding Officer. He then says that when he came out, he found voters of both sexes there, who were about 300 in number. He does not say that these 300 voters were the voters who did not vote, but would have voted for him if the said incident had not occurred. In his cross-examination he states that the voters that were assembled outside the Kachroli polling station, when he was not allowed by the Presiding Officer to go in, included persons from Kachroli and Phulwara villages. Votes were cast by these voters, but he did not know for whom they voted. His witness No. 24, Suraj Mal, however, says. About 200 to 300 voters also left the place saying that when the candidates allowed themselves to be treated like that, what could be expected of such candidates in the Assembly? After this episode many of the voters voted for the Congress candidate, under the effect of this incident. In his cross-examination he further says that he had a talk with some of the voters just after they had come out after casting their votes, and they told him that they wanted to vote for the petitioner, but had to cast their votes for the Congress candidate. The 200 to 300 voters who went away from the polling station without casting their votes belong to Kachroli village, and they had Jan Sangh identity slips with them. On the respondent's side there is no evidence on this point.

On this evidence it is difficult to come to any conclusion that 300 or any number of votes had been lost to the petitioner as a consequence of this episode. It may be that he had lost some votes as a result of the insult meted out to him, but how far it has affected the result of the election is quite another matter. Further what was the number of such voters who had not voted for the petitioner or have transferred their votes intended for the petitioner to the congress candidate, as a result of this insult on the petitioner, has not been clearly proved and on the evidence before us, it is difficult to hold without more corroborative evidence that a large number of voters like 200 or 300 had abstained from voting as a result of this incident.

Issue No. 5.—This issue is raised upon the allegations made in paragraph 13 (h) of the election petition, in which the petitioner makes a case that "on the 16th of January, 1952, the police and officers made indiscriminate arrests of some of the petitioner's leading workers at the behest of Shri Tika Ram Pahwal, the then Revenue Minister, who was there at Wazirpur to extend his personal support and to see that the respondent No. 1 came with flying colours and this struck terror among the illiterate voters and thus nearly 600 votes were lost to the petitioner". The issue that was framed was simple, viz., whether on the night between the 15th and 16th January, 1952, 3 workers of the petitioner mentioned in the police report dated 15th January, 1952, of Wazirpur Police Station were arrested. The petitioner in his deposition stated that at Wazirpur the workers of Jan Sangh were arrested on the night between 15th and 16th January. One of them was Rambaxi of Hindaun. There were two others of Wazirpur, but he did not know their names. Their names, so far as he remembered were Bhudha and Harphool. He stated that he was filing a certified copy of the first information report made against Jan Sangh workers at the Wazirpur Police Outpost, but as a matter of fact no such copy has been filed. In his cross examination he said that he stood surety for two or three persons at Wazirpur, whose names he did not know except that of one Ram Baxi, and that he did not know if Bhudha and Harphool Singh were arrested. It appears from his statement in cross-examination that one Kalyan Prasad Sharma made a report about some incident on that day at Wazirpur, and on the basis of that report some arrests were made, and he stood surety for Ram Baxi and two others. Possibly he refers to the report of Kalyan Prasad Sharma, but that report has not been produced. So from his evidence it is not clear who were the persons except Ram Baxi who were arrested and as regards Ram Baxi also nothing appears as to how, why and when he was arrested. Harphool Singh has been examined as P.W. 6, and he says that two persons were arrested namely Bhudha Brahmin and a Koli of Hindaun, that they were arrested at Jan Sangh meeting which was held at Wazirpur on that day at 8 p.m. and the meeting thereafter dispersed. He further says that he himself was arrested the next day that is on the 16th January, 1952, on which day polling was held at Wazirpur at about 9 a.m., and he was released at about 4 p.m. after the polling was over. The only reason that he gives about his arrest is that two members of the Congress party, namely one Mahomedan and Dayanand told him that he should vote for the Congress, but as he said that

he . . . gh, they told him that they would get him arrested. He further said that he was told that he was misleading the voters, and, therefore, he should be arrested. Rambaxi, who is alleged to have been arrested, has been examined as P.W. 16. He said that he was arrested at about 6 p.m. and released at about 3 a.m., when the petitioner Rikhab Das stood surety for him. According to him other persons were also arrested but he did not know their names. He could say only this much that one of them was a Brahmin. In his cross-examination he says, however, that besides himself no other worker of Jan Sangh was arrested in Wazirpur on that day. This is all the evidence adduced by the petitioner in proof of this issue. It is difficult to come to a definite conclusion on this evidence that three workers of the petitioner were arrested on the night between the 15th and 16th January, 1952. The only man named by the petitioner to have been arrested, that is Ram Baxi, says that he was arrested at 8 p.m. on the 15th January, and no other person belonging to the Jan Sangh party was arrested on that day. The petitioner named Harphool as one of the persons arrested, but Harphool says that two persons were arrested at the meeting on the 15th night at 8 p.m., which is contradicted by Ram Baxi, because Ram Baxi himself says that he was arrested at 6 p.m., which was long before the time of the meeting, and he also says that no other persons were arrested on that day. Then Harphool again says that he himself was arrested on the next day, that is on the 16th at 9 a.m., which does not fit in with the petitioner's case in the issue.

The respondent's evidence on the point is that after the Jan Sangh procession had terminated on that day at Wazirpur, a procession on behalf of the Congress started at about 7 p.m. When the congress procession was proceeding, some persons on behalf of the Jan Sangh intervened and asked them not to shout Congress slogans. Thereafter there was some altercation, in the course of which one Dayanand on behalf of the Congress was hit with a lathi, and one Gokul Dhakar of Hindaun also assaulted R.1/W.3 Mohan Lal. A report of this incident was made by Kalyan Prasad and Dayanand to the police whereupon the S.D.O. of Gangapur came and made enquiries. This report has not been produced. It is said that the S.D.O. ordered arrest of the assailant, but the assailant was then untraceable. That order has not also been produced. Thereafter the S.D.O. finding that there was a good deal of tension existing between the rival parties, and there was an apprehension of a breach of the peace, promulgated an order under section 144 Cr. P.C. prohibiting meetings and processions. That order was circulated by beat of drum at about 9 p.m. in the night when a meeting on behalf of the Congress was proceeding, and on receipt of the news about the promulgation of the order Shri Tika Ram Paliwal, who was speaking at the meeting stopped, and the meeting dispersed. In support of this version of the respondent 7 witnesses have been examined, namely, R.1/W.3 Mohanlal, R.1/W.4, Ramjilal, R.1/W.6, Abdul Rahman, R.1/W.10, Dayachand, R.1/W.11, Ripu Haran Singh, Sub-Inspector of Police, R.1/W.14, Mathuralal, and R.1/W.15, Shri Narayan Das Mehta, Sub-Divisional Officer of Gangapur. There are discrepancies and contradictions in the evidence of these witnesses, which make it difficult to accept their version as totally correct. Not a piece of documentary evidence has been produced to show what report the authorities received and no papers have been filed to prove the actual promulgation of any order under section 144 Cr. P. C. Apparently at the time it is said to have been promulgated, a meeting was being held peacefully without the least apprehension of any disturbance. It may be possible that some sort of skirmish was held when the Congress procession was proceeding, but thereafter nothing seemed to have happened. Jan Sangh meeting, thereafter passed off peacefully, and the Congress meeting was also being held peacefully. According to the respondent's case no arrests had been made, but even the petitioner has not been able to prove by convincing and reliable evidence that such arrests had in fact been made, and who were the actual arrested persons.

Even assuming that some workers of the petitioner were arrested, the mere arrest of his workers would not be of any consequence in this election petition unless it is proved that the arrests were illegal and unjustified and were made with an ulterior motive with the connivance of the respondent or his agent, with a view to interfere with the full exercise of any electoral right. The only allegation made by the petitioner in his election petition was that the arrests were made at the instance of Shri Tika Ram Paliwal, but he has produced no evidence whatsoever to connect Shri Tikaram Paliwal with these arrests, if any, nor has he given any evidence as to how the alleged arrests had interfered with the electoral right of any person or affected the result of election. No other illegal or improper motive or prejudicial consequence has been alleged or proved. The onus was heavily on the petitioner to prove his allegation, and the evidence adduced by him on the point has not in any way discharged the onus. I have no other alternative but to hold that the petitioner has failed to prove his allegation on this issue. The situation at Wazirpur on that day will however come in for further consideration later in another connection.

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is as to whether section 144 of the Code of Criminal Procedure was promulgated in Gangapur town on the 19th January, 1952, banning meetings and processions, and issue No. 7 is as to whether 16 workers of the petitioner were arrested on 19th January, 1952. It seems that issue No. 7 as framed was not quite correct, the petitioner's case, as stated in para. 13 (j) of the election petition is that warrant for arrest was issued against 16 of his workers, but actually 7 of them were arrested.

However, on the question of fact, it is now practically admitted on the respondent's side that section 144 of the Code of Criminal Procedure was promulgated in Gangapur on the 19th of January, 1952, prohibiting meetings and processions, and the arrest of 7 workers of the petitioner—not 16—on that day is also now admitted, though in the written statement of the respondent No. 1, both the events were originally denied. What would be the effect of these two events on the election and this election petition will be considered when dealing with issue No. 17, because the circumstances under which the order under section 144 of the Code of Criminal Procedure was promulgated and the arrests of the petitioner's workers were made will have to be considered. The petitioner's case is that this order prohibiting meetings and processions and the arrest of his workers were made with a view to prejudice him in his election propaganda and to terrorise the electorate so that they would refrain from voting for the petitioner. This point would more properly come under issue No. 17, and will be dealt with accordingly.

Issue No. 8.—In this issue the petitioner raises the objection that a regular canvassing office was set up within 100 yards of the polling booth by respondent No. 1, at polling station No. 588 at Hindaun on the 4th January, 1952, and the Presiding Officer, Shri Hukumsingh did not take any steps to remove it in spite of objection by the petitioner.

On this point, the petitioner stated in his deposition,—“The polling station No. 588 at Hindaun was located at a place called Patwar Ghar. There the Presiding Officer was the Customs Inspector, Shri Hukum Singh. The respondent No. 1 set up his canvassing office about 20 steps from this polling station. I objected to this in writing, which I gave to the Presiding Officer. It is Ex. P. 10. This was returned to me with an endorsement by the Presiding Officer that the canvassing office was outside the polling booth. The office remained where it was, and it was not removed.” There was no cross-examination of the petitioner on this point. In Ex. P. 10 it is complained by the petitioner that the Congress Party had set up their office within 100 yards of the polling booth No. 1, and canvassing was being done from there, and he prayed that proper action might be taken. The order of the Returning Officer on the petition shows that he returned the petition stating that the place was outside the polling booth No. 1. The petitioner was supported in his statement on this issue by P.W. 4 Kanhaiyalal, who said that the candidates whose votes had to be cast had set up their offices near the polling booth. The office set up by the Congress Party was at a distance of 20 or 25 paces from the polling booth. The polling booth was near the bungalow where the Patwari realizes revenue. He also said that the petitioner's office was more than 100 yards away from the polling booth. The witness was cross-examined, but his testimony has not been shaken in any way by the Cross-examination. P.W. 17 Gokul also supported the petitioner on this point. He said that the office of the Congress candidate was situated within 100 yards of the polling station at Kacheri and Taluka Bangala. P.D. 19, Om Prakash Arya also stated to the same effect. He said that the office of the Congress candidate was only about ten yards from the Kacheri polling station at Hinduan. Taluka bungalow was about 15 yards from the Congress office. People at Congress office were canvassing for the Congress candidate. There was a Congress flag at the Congress office. There was no cross-examination of this witness on this point.

There was no rebutting evidence produced on behalf of the respondent on this issue. But the learned counsel for the respondent argued at the time of arguments that as the polling officer said that it was outside the polling booth it required no answer, and as a matter of fact even if such canvassing office was set up, it had not materially affected the result. The question of material affect, if any, on the result of the election, will be dealt with under issue No. 17. But the question of fact as to whether a canvassing office was set up as stated by the petitioner, is being dealt with under this issue. The petitioner's evidence on this point is one-sided, and there is no rebutting evidence on behalf of the respondent. There is no reason why the petitioner's evidence on the point should be disbelieved. Ex. P. 10 shows that the polling officer does not deny the setting up of the canvassing office, but he says that it was outside the polling booth, which does not settle the question. It was nobody's case that the canvassing office complained of was set

up within the polling booth, but the complaint was that it was within 100 yards of the polling booth. Under section 130 of the Representation of the People Act, it is provided:

"No person shall on the date or dates on which a poll is taken at any polling station, commit any of the following acts within the polling station or in any public or private place within a distance of one hundred yards of the polling station, namely:—

(a) canvassing for votes; or

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The petitioner has produced evidence to show that an office was set up within 100 yards of the polling booth, which is a smaller area than the polling station. He has also adduced evidence to the effect that canvassing was being done for the respondent No. 1 from that office. The mere fact that the canvassing office is outside the polling booth would not take it out of the prohibited area of 100 yards of the polling station. Further it has been stated by one witness that there was a Congress flag also at the said Congress office, which is also prohibited under clause (e) of section 130. Clearly, therefore, an electoral offence under section 130 of the Representation of the People Act has been committed by the respondent, and the Presiding Officer, Hukum Singh, far from taking any steps to remove it outside the 100 yards area, as it was his duty to do, and to stop the canvassing, connived at it. As to what would be its effect on the result of the election would be discussed under issue No. 17.

Issue No. 9.—Issue No. 9 is whether at Kotri polling station No. 607, Gomti, widow of Charanlal, was allowed to vote for Govindi, wife of Gainda, though her name was not in the voters' list.

The plaintiff's evidence on this point is that of P.W. 22, Sachchidanand, who says that he was the petitioner's polling agent at Kotri polling station. There was a complaint about Gomti wife of Charanlal having been allowed to vote for another woman, who was wife of Gainda Singh. He said that he filed a complaint before the Presiding Officer. This complaint could not be found amongst the election papers sent to the Tribunal from the election office. The witness filed a copy of the said complaint and a receipt by the Presiding Officer, Shri Hukum Singh, about that complaint. Ex. P. 27 is the copy of that complaint, and the receipt signed by the Presiding Officer is Ex. P. 28. The witness says that he also made a complaint about the matter to the Election Officer, Rajasthan, and the Election Commission, Delhi. A copy of the complaint to the Election Officer, Rajasthan, has been marked Ex. P. 29. Mention is made in Ex. P. 29 of the complaint made to the Presiding Officer at the time. The Petitioner tried to produce the woman Gomti, who is stated to have personated another woman Govindi, but the warrant on her could not be executed, as she could not be found, and Govindi is stated to be dead. In the complaint Ex. P. 27 a detailed narration of the event is given. The number of the ballot paper is also stated along with the number of the elector in the electoral roll. But this evidence cannot be said to be sufficient to prove that such an impersonation had been made. Even if it be held that such an impersonation had been committed there is no proof that it was at the instance of the respondent No. 1. The effect thereof, viz., that of a single impersonation in the voting will be of no consequence on the result of the election, as the difference in the votes obtained by the returned candidate and the petitioner is over 1600.

Issue No. 10.—This issue raises the question as to whether at Piloda polling station on the 10th of January, 1952, Shri Raj Bahadur, the then Deputy Minister in the Central Government, freely canvassed for the respondent No. 1 in the polling booth among the voters.

The petitioner (P.W. 8) in his evidence says that he received a complaint from Piloda polling station that Shri Raj Bahadur was urging the voters to vote for the Congress candidate, and was taking them inside the polling booth. This complaint was made to him by his election agent Om Prakash Arya. Om Prakash Arya, P.W. 19, stated that he had been to Piloda on the day of polling, and Shri Raj Bahadur had come to Piloda on that day, and that Shri Raj Bahadur canvassed at that polling station within 100 yards area. His case is that he made a complaint against Shri Raj Bahadur to the Presiding Officer of that polling station. A copy of that complaint with the signature of the Presiding Officer has been marked Ex. P. 19. The original of the petition could not be traced amongst the election papers sent from the election office. In Ex. P. 19, it has been stated that Shri Raj Bahadur canvassed even before the Presiding Officer in the presence of many persons, but no action had been taken against him, and proper action be

taken. Om Prakash further says that Shri Raj Bahadur carried on propaganda for the Congress candidate, and exhorted the voters to vote for the candidates with the symbol of a pair of bullocks with a yoke on. He canvassed support for the Parliamentary candidate as well as the Assembly candidate.

This is all the evidence on the issue on behalf of the petitioner. As against this the respondent's witness No. 1, Manoharlal, who was the Polling Agent of Shri Raj Bahadur, who was contesting the House of People seat in that area, has deposed that Shri Raj Bahadur came to Piloda polling station at about 12 noon, but he did not do any canvassing there, and did not ask anybody to do so. He made a further case that before Shri Raj Bahadur came to the polling station he, namely, the witness, Manoharlal had made a complaint to the Presiding Officer that some Jan Sangh workers including one Vaid of the State Aushdhalaya, were canvassing within 100 yards of the polling booth. This complaint was made in writing, and is Ex. R.1/1. The Presiding Officer apparently did not take any step thereon and therefore he filed a reminder on the matter, which is Ex. R.1/2. When Shri Raj Bahadur came to the polling station the witness informed him about the complaint and the reminder, and thereupon Shri Raj Bahadur went to the Presiding Officer, had a talk with him, and thereafter left the polling station. According to this witness Shri Raj Bahadur was only at the polling station for about three-fourth of an hour. In the course of arguments in this case, much has been made of the fact that Shri Raj Bahadur has not been examined before the Tribunal to deny the alleged canvassing by him. But it appears to me that the evidence on behalf of the petitioner on the issue depends upon the statement of a single witness. The petitioner himself got his knowledge of that incident from that witness. His statement has been contradicted by the statement of the Respondent's witness Manoharlal who was admittedly present at the time of the alleged incident, and was the polling agent of Shri Raj Bahadur, and to my mind the statement of this witness was quite sufficient to rebut the statement of the petitioner's solitary witness Om Prakash, and the fact that Shri Raj Bahadur has not been produced on behalf of the respondent does not in the circumstances of the case lend any strength to the petitioner's case, or raise any adverse presumption against the respondent.

The issue is decided against the petitioner.

Issue No. 11.—This issue relates to the petitioner's complaint that at Mandawar in polling station No. 615 Gangapur he was not allowed to put his seal on the ballot boxes. The petitioner admits in his cross-examination that the ballot boxes at Mandawar polling station were properly sealed before the polling started there. His complaint is only about his agent not being permitted to affix his seal on the ballot boxes after the polling. It is not alleged that there has been any mis-handling with regard to the ballot boxes, after the polling and it does not appear from the Act or the Rules that it was incumbent upon the Presiding Officer to allow the agent of the candidates to seal the boxes after the polling. Rameshwar Prasad, polling agent of the petitioner, made an application Ex. P. 26 before the Presiding Officer saying that he wanted to put the party's seal on the ballot boxes, and therefore he might be allowed to put such seal of his principal. The Presiding Officer made an endorsement on the back of this application that there was no instruction in the Instructions Book about the allowing of the seals of the parties or their agents on the ballot boxes, and that the only instructions were about the allowing of such seals on the packages. He therefore directed the agent to get instructions from the Sub-Divisional Officer Gangapur in the matter so that this order might be carried out. It has not been shown by the petitioner that after this his agent obtained any instructions from the Sub-Divisional Officer and in the absence of any provision in the Act or Rules made thereunder about the allowing of such seals on the ballot boxes it cannot be held that the Presiding Officer infringed any law in refusing to allow the petitioner's agent to put his seal on the ballot boxes. I do not find any force in this issue, and it is decided against the petitioner.

Issue No. 12.—This issue has been framed on the pleading of the petitioner that the then Patwaries of Katkar, Jharera, Shri Mahavirji and Sherpur distributed identity slips on behalf of the respondent No. 1. The evidence about Jharera is that Mohar Singh the then Patwari of that village distributed identity slips bearing the marks of a pair of bullocks with a yoke on (Congress symbol) to the voters. For this the petitioner has examined Bhonria (P.W. 4), Kishorilal (P.W. 5), and Sachchidanand (P.W. 22). Bhonria says that Patwari Mohar Singh distributed identity slips bearing Congress symbol in his village Jharera, and that he said at the time of the distribution of the slips that any voter voting against the Congress would be considered to be an offender against the Raj. He also says that one of the

slips was given to him by Patwari Mohar Singh at about 7 A.M. It is however not clear on what date the slip was given to him, but he says that it was before the polling day that he got the slips from Mohar Singh, and that when the Patwari distributed the slips, Kanhaiyalal Palliwal also accompanied the Patwari. Further he says that he never told anybody about the incident of the slip having been given to him on behalf of the Congress by Patwari Mohar Singh, and that upto the day of his examination in court he had not given any information of it to the petitioner. Kishorilal (P.W. 5), says that slips were distributed in his village by Mohar Singh a day before the polling day, at about 12 noon, and that one of the slips was given to him also by the Patwari. He also says that when the slip was given to him there was nobody present except his ownself and Mohar Singh. He further says that he did not tell anybody except his brother Damodar about the delivery of identity slips to him by Patwari Mohar Singh. He further adds that he never had any talk with the petitioner in the matter, and that even till the day he was examined he did not inform the petitioner about this affair. Sachchidanand, (P.W. 22), says that he saw Mohar Singh distributing identity slips at Jherera in the evening preceding the polling day when he reached there. It is not explained how what happened with Bhonria and Kesharlal in the matter of the distribution of identity slips by Mohar Singh could come to the knowledge of the petitioner when Bhonria had not furnished information about it to anybody including the petitioner till the very day he was examined. Similarly Kishorilal has also stated that he did not inform anybody except his own brother Damodar about the alleged incident. It has not been shown how this information could reach the petitioner. The record shows that the petitioner was prompt enough to complain about any little incident which came to his knowledge or was suspected by him. It is strange that in such a matter, which is said to be in the knowledge of his agent Sachchidanand, no complaint was made by him or Sachchidanand to any authority before the election took place. The evidence produced on behalf of the petitioner has been controverted by the evidence of Kanhaiyalal and Ramjilal, witnesses Nos. R.1/W.13, and R.1/W.4 respectively, produced by the respondent No. 1. Kanhaiyalal has stated that Mohar Singh never distributed any slip in village Jharera in his presence. This contradicts the statement of Bhonrilal, who says that Kanhaiyalal accompanied Mohar Singh when the identity slip on behalf of the Congress was given to him by Mohar Singh. The evidence of Kanhaiyalal shows that the identity slips on behalf of the Congress candidates, viz; respondent No. 1, Shri Raj Bahadur, and Shri Amritlal in village Jharera were distributed by his ownself, and that the Patwari Mohar Singh was not in the village since 5 or 7 days before the polling day. To my mind in the face of this rebutting evidence on behalf of the respondent No. 1, and the petitioner's evidence being without any further corroboration, direct or circumstantial, it is not sufficient for a definite conclusion that identity slips in village Jharera were distributed by Patwari Mohar Singh on behalf of respondent No. 1.

As regards Katkar, there is the evidence of Krishna Chand (P.W. 20) only who was working for the petitioner. He says that he saw Mishrilal Patwari distributing identity slips of Congress at village Katkar. He does not say that any slips were actually distributed in his presence to any particular person. He states that he passed through the place seeing what was being done there, but did not make any report about it to anybody excepting to the candidate himself. The petitioner does not say that he received the information about the distribution of slips through Krishan Chand, but says that he got the information about the distribution of slips at Katkar by Patwari from Krishna Kumar. It has not been shown that Kishan Kumar and Krishan Chand is one and the same person. No rebutting evidence has been produced on behalf of respondent No. 1, and it would have been proper if Patwari Mishrilal himself had been examined. However looking to the unsatisfactory character of evidence produced by the petitioner himself, I do not think I shall be justified in raising any presumption against the respondent No. 1 for his not examining the Patwari. I am not satisfied from the statement of the solitary witness of the petitioner Krishan Chand that Mishrilal Patwari distributed slips on behalf of respondent No. 1.

As regards Sherpur, the evidence on behalf of the petitioner is only that of Sachchidanand. He says that Kanhaiyalal Patwari distributed identity slips on behalf of congress at Sherpur, but he was not able to name even a single person to whom slips were distributed in his presence. On behalf of the respondent, the evidence of Ramjilal, R.1/W.4 and that of Mishrilal, R.1/W.15 shows that slips were distributed in village sherpur on behalf of Congress by one Mangilal, who is now dead. It may be argued that the fact that Mangilal distributed slips on behalf of the Congress in village Sherpur does not exclude the possibility of distribution of slips by Kanhaiyalal Patwari. The respondent would certainly have done well if he had examined Kanhaiyalal but when the evidence produced on behalf of the petitioner himself is no more than that of his one agent only, and there is no corroboration of it when corroboration was possible, we would not

be justified in drawing an adverse presumption against the respondent simply on account of the fact that he has not examined Kanhaiyalal. To my mind the petitioner has not been able to establish that slips were distributed by Kanhaiyalal at village Sherpur.

Coming lastly to the petitioner's case of distribution of slips at Mahavirji by the local Patwari, there is not a shred of evidence on the record to show that slips were so distributed, except the statement of the petitioner, who said that he got the complaint against the Patwari of Mahavirji from Om Prakash. But Om Prakash, though examined as a witness (P.W. 19) does not say anything about the matter.

The finding on this issue is, therefore, against the petitioner.

Issue No. 13.—The points to be decided in this issue are whether Master Kastoor Chand is a Government employee, and whether he distributed identity slips to the voters on behalf of respondent No. 1. The petitioner in his statement under Order X. Rule, 1, C.P.C. stated that Master Kastoor Chand distributed identity slips of respondent No. 1 in Patonda and Hindaun. He could not give the exact dates on which the identity slips were distributed, but he said that they were distributed within two days before the election. In his examination-in-chief at the hearing he said that he knew Master Kastoor Chand of Hindaun, that he was a teacher of the Government High School in Hindaun, and that he himself saw him distributing the identity slips. In his cross-examination he stated that he had been knowing Kastoor Chand Master since 8 to 10 years, that identity slips were distributed by Kastoor Chand on behalf of the Congress in Mohalla Keshupura of Hindaun and in Patonda village, and that he saw him distributing identity slips in both Hindaun and Patonda. In Patonda Kastoor Chand distributed identity slips on the 5th January at 2 P.M., and in Keshupura on the 1st January. He is supported in his statement by P.W. 8 Jaisi, who says that he saw Master Kastoor Chand distributing slips, that those identity slips were with the mark of a pair of bullocks with a yoke on, that Kastoor Chand was a teacher in Government School Hindaun, and that he was distributing identity slips to carpenters in Mohalla Keshupura, and was saying that votes should be cast in the box with the mark of a pair of bullocks with a yoke on. In his cross-examination he says that the identity slips were distributed by Kastoor Chand at Keshupura a day before the polling took place, and that he himself saw the identity slips being distributed at Keshupura by Kastoor Chand at about 3 P.M. He further states that he saw Kastoor Chand giving an identity slip to one Kishori, and he also saw him giving identity slips to Panna, and Sukha. The houses of Panna, Kishori and Sukha were adjacent. He stated that he had gone to Kishori, who is a carpenter, to get his cart repaired, when the alleged distribution of slips had taken place. Another witness examined by the petitioner on this point is P.W. 14, Mangilal. His statement is that Master Kastoor Chand distributed the slips bearing the mark of a pair of bullocks with a yoke on, that Master Kastoor Chand is a teacher in the Government School, that he resides in the Boarding House, that when Master Kastoor Chand gave him the slip bearing the mark mentioned above, he told the witness that these were the days of the Congress and that the witness should be careful in voting, and that the witness' vote should be cast for the Congress. In cross-examination he stated that Master Kastoor Chand gave him the slip at about 8 or 9 A.M. on the day the votes were cast, and that Master Kastoor Chand had a companion with him, whom he did not know, but he assumed him to be a Government servant, as he was dressed in Khaki uniform, with a chapras around his waist, on which something was written in English. The next witness on the point is P.W. 22, Sachchidanand. He says that he knew Master Kastoor Chand, who was a Girdawar Kanungo at the time of the last General Elections, and prior to that was a teacher in Patwar school. He was a Government servant and he distributed identity slips on behalf of Ridhichand respondent. He did so a day before the votes were cast at Hindaun in Mohalla Keshopura, and while distributing the slips he was asking the voters to vote for the Congress saying that these were the days of Congress rule. In cross-examination he stated that he knew Master Kastoor Chand for about 5 or 6 years, and he saw him distributing identity slips at about 1 P.M., and that they were distributed from house to house. He names five persons viz., Kanchanram, Kishori, Manohri, Jagan and Chiranji Mahajan as some of the persons to whom the slips were distributed by Kastoor Chand. He also says that Master Kastoor Chand had a man or two with him at that time. One other witness, viz., P.W. 23, Hazarilal was also examined by the petitioner on the point, and he said that Master Kastoor Chand distributed the identity slips on behalf of the Congress candidate in Hindaun at Keshopura Mohalla and in Patonda village. He was asking the voters to vote for the Congress saying that these were the days of Congress rule. In cross-examination he says that